JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

Regular Session of 1990

Volume I

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1990, and
in the One Hundred and Ninety-Eighth
Year of the Commonwealth

Begun on the Second Day of January, 1990, and Adjourned
Sine Die on the Thirteenth Day of April, 1990.

Paid for from state funds.

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This Journal represents the fulfillment of this obligation for the Regular Session of the House of Representatives of 1990.

The text of a bill is spread in full when it receives a first reading. The vote on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended. Roll calls on motions to pass legislation have been compiled in an Appendix.

Mrs. Jean Wallace, Mrs. Delores Dearborn and Mrs. Wilda Bond prepared the 1990 House Journal. The edited copy and index in this Journal reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
1990

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION
1990

TUESDAY, JANUARY 2, 1990

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 2, 1990, the one hundred and ninety-ninth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Donald J. Blandford assumed the Chair and called the House to order.

Invocation by Frankfort Community Choir under the direction of Marion Rogers.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Speaker announced the membership of the House remained the same as in the Extraordinary Session of 1989 with the exception of the Seventy-sixth Legislative District for which the vacancy is pending certification.

The roll was called. All members present except Representative Priddy.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Strong moved that the rules be suspended to allow floor privileges to Representative-Elect Tony Curtsinger of the Seventy-sixth Legislative District.

Representative Stumbo moved the nomination of the following Constitutional officers to serve until opening hour of the 1991 Organizational Session:

Chief Clerk, Evelyn Marston
Assistant Clerk, Julie Wheat
Enrolling Clerk, Margaret Watts
Sergeant at Arms, Emmett A. Slattery
Chief Doorkeeper, William E. Davis
Cloakroom Keeper, Lawrence Parrish
Cloakroom Keeper, Albert Robinson
Janitor, F. C. Creasy
Page, Carrie Ann Walker
Page, Douglas Howard
Page, Jonathan Hammons
Page, Amy Luscher

Representative Stumbo moved that the nominations cease and that the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by the Honorable William F. Stewart, Fifty-third District Court Judge.

Representative Stumbo moved that the rules be suspended to introduce and act upon **HR 10, 11** and **13**. Agreed.

HR 10, by Representatives Blandford, Rapier, Worthington, Stumbo and Richards: A RESOLUTION extending an invitation to the pastors of Frankfort Churches to open sessions of the House of Representatives with prayer.

HR 11, by Representatives Blandford, Rapier, Worthington, Stumbo and Richards: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HR 13, by Representatives Blandford, Rapier, Worthington, Stumbo and Richards: A RESOLUTION adopting permanent rules of the House of Representatives.

Representative Stumbo moved the adoption of the following **HR 10**:

HR 10, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open sessions thereof with prayer.

HR 10 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 11**:

HR 11, A RESOLUTION directing appointment of a committee to wait upon the Governor.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the General Assembly is prepared to receive any message he may care to deliver.

HR 11 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 13**:

HR 13, A RESOLUTION adopting permanent rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The Clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and Approval of the Journal.
4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
5. Report of Reference of Bills to Committees.
6. Report of Committees.
7. First Reading of Bills.
8. Second Reading of Bills.
9. Orders of the Day.
10. Motions, Petitions and Communications.

11. Announcements.
12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filing blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with the Commission to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Appointment and Conduct of Constitutional Employees. The constitutional employees of the House shall be appointed by election during the organizational and regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House:

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Economic Development and Tourism
8. Education

9. Elections and Constitutional Amendments
10. Energy
11. Health and Welfare
12. Judiciary
13. Labor and Industry
14. Natural Resources and Environment
15. State Government
16. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chairman in the preceding regular session must select for reappointment the committee he so chaired if he wishes to be considered for the chairmanship of that committee; if another selection is made, he shall not be reappointed chairman of the committee which he chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen members to any one standing committee, except the Committee on Appropriations and Revenue which shall have not more than twenty-three members, and the Committee on Education, the Committee on Economic Development and Tourism and the Committee on State Government which shall each have not more than twenty-one members. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Agriculture and Small Business: matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. Appropriations and Revenue: matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. Banking and Insurance: matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations;

securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. Business Organizations and Professions: matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

5. Cities: matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. Counties and Special Districts: matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employees; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk; county employees' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. Economic Development and Tourism: matters pertaining to commerce, industry, economic and industrial development, and tourism not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising. Subcommittees of the Committee on Economic Development and Tourism shall include but not be limited to the Subcommittee on Industrial Development and the Subcommittee on Tourism.

8. Education: matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

9. Elections and Constitutional Amendments: matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

10. Energy: matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; Utility Regulatory Commission and Energy Regulatory Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol.

11. Health and Welfare: matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

12. Judiciary: matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, Circuit Courts and District Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries, attorneys; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional penitentiaries; civil rights; and juvenile matters.

13. Labor and Industry: matters pertaining to the work-force and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

14. Natural Resources and Environment: matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

15. State Government: matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; Secretary of State; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

16. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; bill boards; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee; provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five legislative days. Within that time, each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to, be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and Energy, Natural Resources, and Environmental Protection;

2. Subcommittee on Education;

3. Subcommittee on General Government, Finance, and Public Protection;

4. Subcommittee on Human Resources;

5. Subcommittee on Justice and Judiciary;

6. Subcommittee on Transportation.

Of the seven members of each such subcommittee four shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The remaining three members of each standing subcommittee shall be deemed a liaison subcommittee of the standing committee or committees from which they were appointed. A vice chairman of the standing committee from which such members were appointed shall act as chairman of the liaison subcommittee. The selection of such vice chairman shall be made by the Committee on Committees. If such three members have been appointed from more than one standing committee the Committee on Committees shall determine which standing committee vice chairman shall act as chairman of the liaison subcommittee.

The liaison subcommittee members of the standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 44. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a committee on conference report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a committee on free conference, consisting of three or more members. A committee on free conference shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. The chairman shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chairman may sign reports on behalf of a majority of the committee members. His signature shall attest to the action of a majority, but shall not be construed as his personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read.

Rule 48. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. This rule does not apply to bills with a fiscal impact of more than $20,000.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the Press Club; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be omitted or eliminated with a single line so as not to render such words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes said sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each such section as it appears in the Kentucky Revised Statutes. The Legislative Research Commission staff shall see that all bills introduced have been prepared through the computerized bill preparation system of the Legislative Research Commission.

Rule 51. Introduction of Bills. Bills and resolutions may be introduced by filing them with the Bill Introduction Clerk in her office at any time the same is open. Bills and resolutions introduced by filing them with the Bill Introduction Clerk after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Bill Introduction Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee. No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Note Required. A sponsor of a measure may at any time prior to the filing of a request for posting form require a fiscal analysis to be made by the Legislative Research Commission upon the same and a fiscal note attached thereto.

The chairman of the committee to which the measure has been referred may, at any time after a request for posting form is filed with the committee by the sponsor, determine that a fiscal analysis is required on any measure not carrying a fiscal note. The chairman upon such determination shall cause a fiscal analysis to be made by the Legislative Research Commission and a fiscal note attached prior to posting the measure for consideration.

After posting the measure, a majority of the committee may determine that a fiscal analysis is required on any measure not already carrying a fiscal note and shall direct the same to be accomplished and fiscal note attached with all dispatch. A committee may consider any measure on the date for which it is posted even if it is determined by the committee on that date that a fiscal analysis is required, however, no final action shall be taken by the committee upon said measure until a fiscal note is presented to the committee and attached to the measure.

Any member proposing to amend from the floor a bill or resolution which carries a fiscal note or if the proposed amendment itself carries a fiscal implication, the member proposing the amendment shall cause a fiscal analysis of the amendment to be made and a fiscal note attached to the proposed amendment at the time of introduction. In the event an amendment is introduced without a fiscal note, any member may raise the question of fiscal implication to the amendment by a motion and by majority vote require a fiscal analysis to be made and a fiscal note attached to the amendment. If a fiscal analysis and note is required by the membership, action on the bill or resolution to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. A fiscal note required by the membership shall be filed and attached to the amendment prior to the convening of the session of the next legislative day. In the event it is impossible to complete the analysis and prepare a fiscal note before the convening of the session on the next legislative day, the Director of the Legislative Research Commission shall so advise the membership by letter and state a time in which the same can be completed and filed with the House.

If the Director of the Legislative Research Commission certifies that the fiscal note cannot be completed within the prescribed time, the amendment shall not be in order unless the members, by majority vote, determine either: (1) act on the amendment and the bill or resolution without the benefit of the fiscal note, or to (2) pass over the bill or resolution in the Orders of the Day and allow it to be retained in the Orders of the Day until the fiscal note is filed.

Rule 52A. Local Mandate Impact Statement. Any bill which relates to any aspect of local government or any service provided thereby shall be analyzed by the Legislative Research Commission for its fiscal impact upon local governments and if determined to contain a local mandate shall have a local mandate impact statement attached prior to final consideration.

No measure which contains a local mandate shall be placed in the Orders of the Day until the local mandate impact statement is attached unless the requirement of the statement has been waived by a vote of two-thirds of all members of the House.

Any member proposing to amend from the floor a bill which contains a local mandate or if the proposed amendment itself contains a local mandate, shall cause a fiscal analysis of the amendment to be made and a local mandate impact statement attached to the proposed amendment. Until such time as the local mandate impact statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day.

Rule 53. Proposed Administrative Regulations. (1) Before committee consideration of any bill originating in the House, which contains the authority for any agency, board or political subdivision of state government to promulgate regulations, the bill shall have attached a copy of a statement of legislative intent for the bill, including a summary of guidelines to be followed in preparing regulations pursuant to the bill.

Every committee shall have the exclusive right to determine whether the summary submitted meets the requirements of this rule. The committee may waive the provisions of this rule by majority vote, and shall acknowledge on its committee report the receipt of and consideration of the matters submitted with the bill pursuant to this rule.

The purpose of the requirements of this rule is to inform the House of the general scope of the regulations authorized by the bill and to provide a permanent record of legislative intent; and pursuant thereto, when any bill subject to the provisions of this rule becomes law the Director of the Legislative Research Commission shall cause to be filed with the Administrative Regulation Review Subcommittee of the Legislative Research Commission the summary of the regulations submitted with the bill to be used by the Administrative Regulation Review Subcommittee when reviewing regulations promulgated pursuant to the bill. The Administrative Regulation Review Subcommittee shall use the material submitted with the bill to determine legislative intent.

Nothing contained in this rule shall preclude the promulgation of regulations differing from those filed or summarized and submitted with the bill.

(2) This amendment of the Rules of the House of Representatives shall apply only to bills introduced after February 5, 1980.

Rule 54. Rejected Administrative Regulations. When an administrative regulation has been referred by the Clerk to a standing committee of the House, the committee shall review the regulation and take such action as it deems appropriate. If the committee recommends rejection it must set forth in its report the reasons for its rejection which shall be for either of the following reasons, or both: (1) The administrative regulation does not conform to statutory authority. (2) It does not carry out legislative intent.

Unless the House and Senate committees both recommend rejection of the regulation in their committee reports and the committee reports are thereafter adopted by at least two-fifths of the members elected to each house, and a majority of the members voting, the regulation shall become effective.

When a House committee report recommending rejection has been adopted by the House as set forth above, the House Clerk shall so notify the Clerk of the Senate.

If both the Senate and the House have approved committee reports recommending rejection of a regulation, a report to that effect shall be signed by both clerks and sent to the promulgating agency and the regulations compiler. A copy of this report shall be on file in the office of the Clerk of the Senate and in the office of the Clerk of the House.

Proposed regulations that have been properly laid before the General Assembly shall become effective upon sine die adjournment of the General Assembly unless the General Assembly in regular session shall disapprove the proposed regulation.

Rule 55. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 56. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 57. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 59. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 60. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 61. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution and unless it complies with Rule 52 relative to fiscal analysis; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a House bill under consideration containing the substantial text of the language of another bill shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause such amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of another bill the Speaker shall rule thereon, subject to appeal to the House.

Rule 62. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 63. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross said amendments in the original copy of the bill by typing or may generate a replacement original copy of the House bill through computerized process, before delivering the bill to the Enrolling Clerk of the House.

In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy can be produced, the Enrolling Clerk may enroll such bill or resolution by typing the same.

The original bill or resolution or replacement therefor, if applicable, and an enrolled copy shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each are in the exact form as finally passed prior to such delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 64. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 65. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study. All resolutions recommending or requiring a study, or which recommend or create a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 66. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted *en bloc* after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.

A resolution shall not be accepted for introduction if offered in lieu of a legislative citation.

VOTING

Rule 67. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 68. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the Clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The Clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 69. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 70. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 71. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 72. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 73. Restriction of lobbying and access to the House Chambers and office areas. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from such member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol.

Rule 74. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall conform to accepted public taste and shall contain no matter appealing to prurient interest or without redeeming social value. Such documents shall be delivered to the message room and shall upon direction of the Clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of inspecting such material and seeing that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material found so distributed by unauthorized individuals shall be collected from the members' desks and treated as litter.

RULES

Rule 75. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 76. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

HR 13 was adopted by voice vote.

Introduction of Bills and Resolutions

Representative Stumbo moved that the reading of prefiled bills by individual sponsor and title be waived and that a list of these bills and sponsors with appropriate bill numbers be spread upon the record. Agreed.

HB 1, by Representative Long: AN ACT relating to enforcement of child support orders.

HB 2, by Representatives Gray, Stumbo and Ward: AN ACT relating to holidays.

HB 3, by Representatives B.R. Smith and Altman: AN ACT relating to the state employe benefit fund.

HB 4, by Representative Cline: AN ACT relating to property valuation administrators.

HB 5, by Representative P. Richardson, Hancock, Bruce, Ballard, Maggard and Morris: AN ACT relating to income taxes.

HB 6, by Representative A. Jones: AN ACT relating to architects.

HB 7, by Representative Morris and Bruce: AN ACT relating to desecration of venerated objects.

HB 8, by Representative L. Clark: AN ACT relating to barbers.

HB 9, by Representative Callahan: AN ACT relating to pension fund boards of trustees.

HB 10, by Representative Siler: AN ACT relating to retirement.

HB 11, by Representative Mack: AN ACT proposing an amendment to the Kentucky Constitution relating to education.

HB 12, by Representative Castleman: AN ACT relating to retirement.

HB 13, by Representative LeMaster: AN ACT proposing to amend Section 36 of the Constitution of Kentucky relating to legislative sessions.

HB 14, by Representative Farrow: AN ACT relating to the conduct of elections.

HB 15, by Representative Callahan: AN ACT relating to city elections.

HB 16, by Representative Blandford: AN ACT proposing to amend Section 28 of the Constitution of Kentucky relative to administrative regulations.

HB 17, by Representative Butler: AN ACT relating to trade practices.

HB 18, by Representative Geveden: AN ACT relating to the State Fair Board.

HB 19, by Representatives Donnermeyer and Callahan: AN ACT relating to property taxation by cities, counties, special districts and urban county governments.

HB 20, by Representatives Castleman, Siler, P. Richardson, McBee, B. Richardson, Ballard, Bronger, Pritchett, Nelson, Allen and Preston: AN ACT relating to telecommunication services for hearing-impaired or speech-impaired persons.

HB 21, by Representative Arnold: AN ACT relating to the classification of cities.

HB 22, by Representative Castleman: AN ACT relating to the use of force.

HB 23, by Representative Donnermeyer: AN ACT relating to complaints against police officers.

HB 24, by Representative J. Harper: AN ACT relating to immunity from liability for teachers and school administrators.

HB 25, by Representative L. Clark: AN ACT relating to the handicapped.

HB 26, by Representative Mullinix: AN ACT relating to the enforcement of motor vehicle and traffic laws.

HB 27, by Representative Farrow: AN ACT relating to crimes and punishments.

HB 28, by Representative Johnson: AN ACT relating to domestic relations.

HB 29, by Representative Burch and Ward: AN ACT relating to firearms control.

HB 30, by Representative Brown: AN ACT relating to recycling.

HB 31, by Representative Brown: AN ACT relating to solid waste incineration.

HB 32, by Representative Brown: AN ACT relating to waste tires.

HB 33, by Representative Brown: AN ACT relating to solid waste collection.

HB 34, by Representative Brown: AN ACT relating to lead acid batteries.

HB 35, by Representative Brown: AN ACT relating to waste reduction.

HB 36, by Representative Brown: AN ACT relating to the hazardous waste management assessment.

HB 37, by Representative Brown: AN ACT relating to publicly owned landfills.

HB 38, by Representatives Long and Stumbo: AN ACT relating to crimes and punishments.

HB 39, by Representatives Siler, Bruce, Ballard, Zimmerman and Maggard: AN ACT relating to holidays for state personnel.

HB 40, by Representative McBee: AN ACT relating to crimes and punishments.

HB 41, by Representative J. Harper: AN ACT relating to traffic regulations.

HB 42, by Representative J. Harper: AN ACT relating to redesigning schools to improve student learning.

HB 43, by Representatives Ward, L. Clark, White, Richards, Noe, Moberly, Bentley, Kerr and Blevins: AN ACT relating to motor vehicle operator's licenses.

HB 44, by Representative McElroy: AN ACT relating to mineral interests.

HB 45, by Representatives Lewis and Mack: AN ACT relating to hazardous duty retirement.

HB 46, by Representative McElroy: AN ACT relating to oil and gas.

HB 47, by Representative McElroy: AN ACT relating to the purchase of starch-based plastic garbage can liners by state agencies.

HB 48, by Representative J. Harper: AN ACT relating to the Kentucky Historical Society.

HB 49, by Representative Maggard: AN ACT relating to dogs.

HB 50, by Representative Maggard: AN ACT relating to deer.

HB 51, by Representatives Lyne and Gedling: AN ACT relating to motor vehicle registration.

HB 52, by Representative J. Harper: AN ACT relating to insurance.

HB 53, by Representative J. Harper: AN ACT relating to insurance.

HB 54, by Representative Zimmerman: AN ACT relating to service districts within counties.

HB 55, by Representative Geveden: AN ACT relating to motor vehicle insurance.

HB 56, by Representative Zimmerman, Maggard, Bruce, Ballard, P. Richardson and Siler: AN ACT relating to crimes and punishments.

HB 57, by Representative Gregory: AN ACT relating to motor vehicles.

HB 58, by Representative Maggard: AN ACT relating to forestry.

HB 59, by Representatives Pritchett and Morris: AN ACT relating to retirement.

HB 60, by Representative Scorsone: AN ACT relating to the Council on Higher Education.

HB 61, by Representative Mack: AN ACT relating to school finance.

HB 62, by Representatcorsone, Burch, Mack and Blevins: AN ACT relating to mammography.

HB 63, by Representative Sheehan: AN ACT relating to court costs.

HB 64, by Representative Burch: AN ACT relating to vital statistics.

HB 65, by Representative Brown: AN ACT relating to acquisition of natural areas and providing funding therefor.

HB 66, by Representativ Crupper: AN ACT relating to milk.

HB 67, by Representatives Reinhardt and Arnold: AN ACT relating to an environmental trust fund.

HB 68, by Representative Donnermeyer: AN ACT relating to records.

HB 69, by Representative Bronger: AN ACT relating to intertrack wagering.

HB 70, by Representative Siler: AN ACT relating to pesticides.

HB 71, by Representative Mack: AN ACT relating to teachers' retirement.

HB 72, by Representative Strong: AN ACT relating to drug and alcohol education.

HB 73, by Representative Todd: AN ACT relating to motor vehicles.

HB 74, by Representative Mullinix: AN ACT relating to interest on public utility customer deposits.

HB 75, by Representative Clarke: AN ACT relating to thistles and weeds and declaring an emergency.

HB 76, by Representative L. Clark: AN ACT relating to the regulation of electrical occupations.

HB 77, by Representative Long: AN ACT relating to expenses of public advocacy.

HB 78, by Representative Scorsone: AN ACT relating to occupational safety and health of employees.

HB 79, by Representative L. Clark: AN ACT relating to dental hygiene.

HB 80, by Representative Brown: AN ACT relating to enforcement of the environmental protection program.

HB 81, by Representative LeMaster: AN ACT relating to embalmers and funeral directors.

HB 82, by Representative Todd: AN ACT relating to bulk transfers.

HB 83, by Representative Hourigan: AN ACT relating to Kentucky writers.

HB 84, by Representative Donnermeyer: AN ACT relating to the Legislative Research Commission.

HB 85, by Representative Zimmerman: AN ACT relating to crimes and punishments.

HB 86, by Representatives Burch and Mack: AN ACT relating to the practice of nursing.

HB 87, by Representatives Napier, Bruce and A. Jones: AN ACT relating to public works.

HB 88, by Representative Butler: AN ACT relating to the possession of paging devices by public school students.

HB 89, by Representative Geveden: AN ACT relating to the compensation of State Fair Board members.

HB 90, by Representative Yates: AN ACT relating to motor vehicle operators.

HB 91, by Representative Donnermeyer: AN ACT relating to the Kentucky Information Systems Commission.

HB 92, by Representative Priddy: AN ACT relating to the Kentucky Center for the Arts.

HB 93, by Representative Cyrus: AN ACT relating to unemployment insurance.

HB 94, by Representative Mack: AN ACT relating to retirement.

HB 95, by Representative Long: AN ACT relating to guardianship.

HB 96, by Representative Noland: AN ACT relating to inheritance and estate taxes.

HB 97, by Representatives Blevins and Curd: AN ACT relating to sales and use tax.

HB 98, by Representative Noland: AN ACT relating to insurance.

HB 99, by Representatives Scorsone and Freibert: AN ACT relating to child day-care and declaring an emergency.

HB 100, by Representative L. Clark: AN ACT relating to contractors.

HB 101, by Representative Nelson: AN ACT relating to prescription drugs.

HB 102, by Representative Ridley: AN ACT relating to out-of-state pharmacies.

HB 103, by Representatives Clarke and Northup: AN ACT relating to debt.

HB 104, by Representatives Clarke and Northup: AN ACT relating to creation of a Capital Planning Advisory Board.

HB 105, by Representative Maggard: AN ACT relating to crimes and punishments.

HB 106, by Representative J. Harper: AN ACT relating to compulsory attendance.

HB 107, by Representatives Blevins, Scorsone, Hatcher and White: AN ACT relating to nursing providing for the creation and operation of a scholarship fund to be known as the Kentucky Nursing Incentive Scholarship Fund.

HB 108, by Representative Callahan: AN ACT relating to the senior and physically disabled adult discount program.

HB 109, by Representatives Morris and Reinhardt: AN ACT relating to entrepreneurship education.

HB 110, by Representative Ballard: AN ACT relating to motor vehicles.

HB 111, by Representatives Little, Cline, Worthington, Pritchett, Napier, Jackson, Hancock, Ridley, Noland, Altman, P. Richardson: AN ACT relating to highways.

HB 112, by Representative Long: AN ACT relating to anabolic steroids.

HB 113, by Representatives Scorsone, Mack, Stokes, Ward and Gray: AN ACT relating to medical care.

HB 114, by Representative McElroy: AN ACT proposing amendments to Sections 36 and 42 of the Kentucky Constitution relating to legislative sessions.

HB 115, by Representative Lewis: AN ACT relating to alcoholic beverage control and declaring an emergency.

HB 116, by Representative Ward: AN ACT proposing to amend the Constitution of Kentucky relative to property taxation.

HB 117, by Representative Burch: AN ACT relating to the care of the mentally retarded.

HB 118, by Representative Burch: AN ACT relating to long-term care.

HB 119, by Representative Burch: AN ACT relating to child support enforcement.

HB 120, by Representative Burch: AN ACT relating to child support.

HB 121, by Representative Burch: AN ACT relating to mental health.

HB 122, by Representative Burch: AN ACT relating to alcohol and other drug abuse.

HB 123, by Representative Burch: AN ACT relating to families and children.

HB 124, by Representatives Arnold, Crupper, Turner, Napier, Morris and Reinhardt: AN ACT relating to a linked investment loan program for agricultural development and diversification.

HB 125, by Representative McBee: AN ACT relating to crimes and punishment.

HB 126, by Representative Todd: AN ACT establishing a birth defects registry and making an appropriation therefor.

HB 127, by Representative Burch: AN ACT relating to public health.

HB 128, by Representatives Freibert and Stokes: AN ACT relating to economic development.

HB 129, by Representatives Stokes and Freibert: AN ACT relating to early childhood education and making an appropriation therefor.

HB 130, by Representatives Stokes and Freibert: AN ACT relating to child day-care.

HB 131, by Representative Lewis: AN ACT relating to the repeal of credit for local alcoholic beverage licenses and declaring an emergency.

HB 132, by Representative Gregory: AN ACT relating to the quality of motor fuels and providing an appropriation therefor.

HB 133, by Representative Turner: AN ACT relating to civil contempt.

HB 134, by Representative Turner: AN ACT relating to secret ballots.

HB 135, by Representatives Lewis and A. Jones: AN ACT relating to crimes and punishments.

HB 136, by Representative Scorsone: AN ACT relating to higher education.

HB 137, by Representative Morris: AN ACT relating to economic development.

HB 138, by Representatives Maggard and Reinhardt: AN ACT relating to economic development and making an appropriation.

HB 139, by Representatives Scorsone and Ward: AN ACT relating to Acquired Immune Deficiency Syndrome.

HB 140, by Representatives Morris and Reinhardt: AN ACT relating to small business incubators and making an appropriation therefor.

HB 141, by Representatives Callahan, Kerr and Sheehan: AN ACT relating to care of the medically indigent and making an appropriation therefor.

HB 142, by Representative Siler: AN ACT relating to the Kentucky Emergency Response Commission.

HB 143, by Representative Callahan: AN ACT relating to amend the Constitution of Kentucky relating to taxation.

HB 144, by Representative Freibert: AN ACT relating to family day care.

HB 145, by Representatives Clarke and Northup: AN ACT relating to a uniform financial information report for local governments.

HB 146, by Representative Morris: AN ACT relating to the bonding capacity of the Kentucky Housing Corporation and declaring an emergency.

HB 147, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 148, by Representative Bruce: AN ACT relating to financial institutions.

HB 149, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 150, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 151, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 152, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 153, by Representative Butler: AN ACT relating to non-Kentucky hazardous waste.

HB 154, by Representative McElroy: AN ACT relating to inheritance and estate taxes.

HB 155, by Representative Cline: AN ACT relating to economic development.

HB 156, by Representative Callahan: AN ACT relating to the benefits of city and urban-county employes.

HB 157, by Representative Clarke: AN ACT relating to revenue and taxation.

HCR 1, by Representative P. Clark: A CONCURRENT RESOLUTION expressing concern over the recent decision by the United States Supreme Court relative to flag desecration.

HJR 2, by Representative Reinhardt: A JOINT RESOLUTION ratifying a proposed amendment to the Constitution of the United States relating to the compensation of members of the United States Congress.

HR 3, by Representatives Bruce, Siler, Gregory, Ballard, Zimmerman and Maggard: A RESOLUTION requesting the Legislative Research Commission to re-establish the Subcommittee on Veterans' Affairs.

HCR 4, by Representatives Clarke and Northup: A CONCURRENT RESOLUTION directing a study of the Commonwealth's legal and practical liability for debt issued by local governments and by independent state debt issuing authorities.

HJR 5, by Representative J. Harper: A JOINT RESOLUTION directing that a division of socio-educational instruction be created within the Cabinet for Human Resources.

HCR 6, by Representative J. Harper: A CONCURRENT RESOLUTION to create a task force to study a proposal to establish a global positioning system (GPS) oriented geometric reference system for the Commonwealth of Kentucky.

HR 7, by Representative Strong: A RESOLUTION adjourning the House of Representatives in memory and honor of the renowned thoroughbred, Secretariat.

HJR 8, by Representatives J. Harper, White, Turner, Gregory, Farrow, Preston, Castleman, Hancock, Yates, Napier, Ballard, Allen, Layman, Keith and Noland: A JOINT RESOLUTION appointing Thomas D. Clark, Ph. D. to the honorary position of Historian Laureate of Kentucky.

HCR 9, by Representative Clarke: A CONCURRENT RESOLUTION reauthorizing and reestablishing a task force to study debt limits and other issues related to the creation of debt.

HB 158, by Representative Mack: AN ACT relating to boarding homes.

HB 159, by Representatives Worthington, Blandford, Rapier, Richards and Stumbo: AN ACT relating to legislative facilities.

HB 160, by Representative Heleringer: AN ACT relating to motor vehicle safety.

HR 12, by Representatives Blandford, Rapier, Stumbo, Worthington and Richards: A RESOLUTION honoring the memory of Edith Schwab.

HR 14, by Representatives Mack and Scorsone: A RESOLUTION adjourning the House of Representatives of the 1990 Kentucky General Assembly in honor of Miss Pamela Kay Browning.

HR 15, by Representative Heleringer: A RESOLUTION amending the rules of the House of Representatives.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 65, HB 96, HB 97**

Banking and Insurance: **HB 3**

Business Organizations and Professions: **HB 6, HB 8**

Cities: **HB 9, HB 10, HB 21**

Counties and Special Districts: **HB 4, HB 12**

Economic Development and Tourism: **HB 18, HB 89, HB 92, HB 155**

Elections and Constitutional Amendments: **HB 11**

Energy: **HB 17**

Health and Welfare: **HB 62, HB 64**

Labor and Industry: **HB 93**

State Government: **HB 2, HB 7, HCR 1**

Report of Committees

The Committee on Committees has made the following changes in committee appointments:

Representative Bronger - Relinquished Vice Chairman of Committee on Energy.

Representative Bruce - Appointed to the Committee on Agriculture and Small Business.

Representative Casebier - Appointed Vice Chairman to the Committee on Judiciary and removed as Vice Chairman from the Committee on Elections and Constitutional Amendments.

Representative Mullinix - Appointed to the Committee on Agriculture and Small Business.

Representative Nelson - Appointed Vice Chairman, Committee on Energy.

Representative Overstreet - Appointed Vice Chairman, Committee on Health and Welfare.

Representative Preston - Appointed to the Committee on Cities, removed from the Committee on Agriculture and Small Business, appointed Vice Chairman to the Committee on Elections and Constitutional Amendments and removed as Vice Chairman from the Committee on Counties and Special Districts.

Representative Reinhardt - Relinquished Vice Chairman of the Committee on Judiciary.

Representative Stokes - Appointed to the Committee on Counties and Special Districts.

Representative Todd - Appointed Vice Chairman, Committee on Counties and Special Districts and removed as Vice Chairman from the Committee on Health and Welfare.

Representative Geveden - Appointed to the Committee on State Government and removed from the Committee on Agriculture and Small Business.

Representative Ridley - Appointed to the Committee on Banking and Insurance and removed from the Committee on State Government.

Representative Jim LeMaster - Appointed to the Committee on Appropriations and Revenue, Budget Review Subcommittee on General Government and removed from the Committee on Judiciary.

Representative Lewis - Appointed to the Committee on Economic Development and Tourism and removed from the Committee on Elections and Constitutional Amendments.

Representative Curd - Appointed to the Budget Review Subcommittee on Transportation and removed from the Budget Review Subcommittee on General Government.

Representative Stumbo moved to suspend the rules to waive the three day posting requirement for pre-filed bills with favorable expression from an Interim Joint Standing Committee. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Mack moved that **HR 14** be read in its entirety.

Representative Mack moved the adoption of the following **HR 14**:

HR 14, A RESOLUTION adjourning the House of Representatives of the 1990 Kentucky General Assembly in honor of Miss Pamela Kay Browning.

WHEREAS, with deep sympathy and sorrow the members of this body record the death of Pamela Kay Browning of Lexington, Kentucky; and

WHEREAS, Miss Browning lost her life in a car accident on Highway 92 in West Virginia on December 30, 1989; and

WHEREAS, Miss Browning was a former center for the University of Kentucky Women's Basketball Team from 1974 to 1978; and

WHEREAS, Miss Browning played two seasons with a professional basketball team, the New Jersey Gems; and

WHEREAS, in the 1976-77 season Miss Browning set Lady Kat records for highest season scoring average, most two point field goal attempts in a game, most free throws attempted in a season and most free throws made in a game; and

WHEREAS, her 1974-75 season rebounding average also stands as a Lady Kat record. She was the Lady Kats' third all-time scorer with 1,598 points;

WHEREAS, Miss Browning was named a Street and Smith All-American in 1977 and was captain of the Lady Kats when the team won the National Women's Invitational Tournament Championship; and

WHEREAS, she also played volleyball at the University of Kentucky and was high jumper for the track team;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does hereby express its utter sense of bereavement and loss upon the death of Miss Pamela Kay Browning and commits her loving family to the solace of the Almighty.

Section 2. That when the House does adjourn this day, Tuesday, January 2, 1990, it does so in honor and memory of Pamela Kay Browning.

Section 3. That the Clerk of the House of Representatives is directed to send a copy of this resolution to the brother of Miss Browning, Mark Taylor Browning, Ghent, Kentucky.

HR 14 was adopted by voice vote.

HB 161, by Representative Clarke: AN ACT relating to proposals to amend the Constitution of Kentucky relating to taxation.

HB 162, by Representative Heleringer: AN ACT relating to trade practices and motor vehicle rental agreements.

HB 163, by Representative L. Clark: AN ACT relating to education.

HB 164, by Representative Burch: AN ACT relating to family day-care homes.

HB 165, by Representative Burch: AN ACT relating to the prevention of the spread of the human immunodeficiency virus (HIV).

HB 166, by Representative Clarke: AN ACT proposing to amend the Constitution of Kentucky relative to statewide elected officials.

HB 167, by Representative Heleringer: AN ACT relating to support dogs.

HB 168, by Representative Donnermeyer: AN ACT relating to boiler operators.

HB 169, by Representative Heleringer: AN ACT relating to the conduct of schools.

HB 170, by Representative Burch: AN ACT relating to election officials.

HB 171, by Representative Burch: AN ACT relating to intertrack wagering.

HB 172, by Representatives Barrows and Burch: AN ACT relating to child abuse.

HB 173, by Representative Barrows: AN ACT relating to water.

HB 174, by Representative Barrows: AN ACT relating to gifted and talented education.

HB 175, by Representative Barrows: AN ACT relating to teachers' retirement.

HB 176, by Representative M. Brown: AN ACT relating to funding solid waste management programs.

HB 177, by Representative Lear: AN ACT relating to legal services for indigent people.

Representative T. Jones moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative T. Jones moved the adoption of the following Legislative Citation No. 1. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with deep compassion and sorrow the passing of the late Ollie James Bowen. Mr. Bowen, a retired district judge, a former president of the Kentucky Bar Association who served in both the Kentucky House of Representatives and the Senate. The Commonwealth of Kentucky mourns his passing, for he was an outstanding citizen and dedicated servant.

This prestigious body adjourns in his memory and extends our deepest sympathy to the family. (Sponsored by Representative T. Jones)

Representative Stumbo moved that the House stand at ease to await the arrival of the Senate to honor Edith Schwab. Agreed.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The chief doorkeeper announced the arrival of the President of the Senate.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, assumed the Chair and called the joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Prayer by Rabbi Eric Slaton, Ohavoy Zion Synagogue, Lexington.

The dedication program honoring Edith Schwab began with comments from Speaker Blandford and continued with commments from Senator Rose, Vic Hellard and Michael Schwab.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 16, by Representative T. Jones: A RESOLUTION adjourning the House of Representatives in memory and honor of Ollie James Bowen.

Representative T. Jones moved the adoption of the following **HR 16**:

HR 16, A RESOLUTION adjourning the House of Representatives in memory and honor of Ollie James Bowen.

With deepest respect, we pay homage and tribute to the memory of our departed mentor, friend and fellow legislator;

WHEREAS, Ollie James Bowen of Anderson County, Kentucky traversed these earthly bounds on December 16, 1989; and

WHEREAS, Ollie James Bowen was born on May 20, 1906, in Anderson County, Kentucky; and

WHEREAS, Ollie James Bowen was the son of Green and Nettie Shyrock Bowen of Anderson County, Kentucky; and

WHEREAS, Ollie James Bowen graduated from Kavanaugh High School in Lawrenceburg, Kentucky; and

WHEREAS, Ollie James Bowen graduated from the University of Kentucky in Lexington, Kentucky; and

WHEREAS, Ollie James Bowen received his law degree from the George Washington Law School in Washington, D.C., and was admitted to the Washington Bar in 1933; and

WHEREAS, Ollie James Bowen practiced law in Lawrenceburg, Kentucky, and served as Lawrenceburg's city attorney; and

WHEREAS, Ollie James Bowen served as Anderson County Attorney for thirty-eight years; and

WHEREAS, Ollie James Bowen served two terms as district judge for Anderson, Spencer and Shelby Counties; and

WHEREAS, Ollie James Bowen was elected president of the Kentucky Bar Association in 1967; and

WHEREAS, Ollie James Bowen was a veteran of World War II and a member of the Kentucky Historical Society, the Lexington Civil War Roundtable, the Lawrenceburg Rotary Club and Masonic Lodge No. 90; and

WHEREAS, Ollie James Bowen was a former trustee and elder of First Christian Church in Lawrenceburg, Kentucky; and

WHEREAS, Ollie James Bowen was elected to the Kentucky House of Representatives in 1933, reelected in 1935 and, in 1938, was elected to the State Senate; and

WHEREAS, Ollie James Bowen was the devoted father of Charlotte Bowen Wright and loving grandfather of James F. and Kristen Louise Wright; and

WHEREAS, the death of Ollie James Bowen has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement and loss upon the passing of Ollie James Bowen.

Section 2. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Tuesday, January 2, 1990, it does so in memory and honor of Ollie James Bowen.

Section 3. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Charlotte Bowen Wright, 1042 Woodspoint Drive, Lawrenceburg, Kentucky 40342.

HR 16 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 12**. Agreed.

The following members filed requests to have their names added as co-sponsors to **HR 12**: Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Pritchett, Reinhardt,

B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Todd, Turner, Walker, Ward, White, Yates, Zimmerman.

Representative Stumbo moved the adoption of the following **HR** 12:

HR 12, A RESOLUTION honoring the memory of Edith Schwab.

We pause in silent reverence to remember our beloved friend Edith:

WHEREAS, on April 16, 1989, the life of our vibrant friend Edith Schwab was abruptly extinguished; and

WHEREAS, Edith Schwab was a gifted scholar and intellect, an accomplished lawyer and dedicated staff member to the Kentucky General Assembly for almost twenty six years; and

WHEREAS, beginning her tenure with the Legislative Research Commission on April 17, 1963, Edith was named Acting Statute Reviser in April of 1976; and

WHEREAS, Edith Schwab was permanently designated as Kentucky's Reviser of Statutes in July of 1977 — a prestigious position which she held until her death; and

WHEREAS, recognized for her expertise in the legislative process, Edith Schwab was made Deputy Director of the Legislative Research Commission on August 1, 1985, a capacity in which she excelled in addition to her duties and responsibilities as Statute Reviser; and

WHEREAS, Edith Schwab was an exemplary humanitarian and magnanimous individual who had dedicated her life to serving her fellowman; and

WHEREAS, Edith Schwab's door was always open to her co-workers — a truly extraordinary person whose special gifts and talents endeared her to all; and

WHEREAS, the halls of the State Capitol were hallowed by Edith's presence — she will live forever in our hearts; and

WHEREAS, we have been privileged to have known Edith Schwab and it is only fitting that the General Assembly remember her in a special ceremony on the first day of the 1990 legislative session;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby remember our departed friend and colleague during a special memorial service on January 2, 1990.

Section 2. That a commemorative plaque be dedicated in memory of Edith Schwab during the January 2nd service.

Section 3. That a copy of this resolution be transmitted to the family of Edith Schwab.

HR 12 was adopted by voice vote.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 3, 1990.

On the roll call the vote was yeas 83—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Barrows, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 3: LeMaster, Lile, and Preston.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 3, 1990

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Heleringer and Overstreet.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 2, 1990 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 178, by Representative Crupper: AN ACT providing for the interagency coordination of the implementation of a statewide rural development policy and making an appropriation therefor.

HB 179, by Representative Johnson: AN ACT relating to actions for damages.

HB 180, by Representative Johnson: AN ACT relating to judgment liens.

HB 181, by Representative J. Harper: AN ACT relating to consumer reporting agencies.

HB 182, by Representative Donnermeyer: AN ACT relating to venue.

HB 183, by Representative Ackerson: AN ACT relating to the Uniform Commercial Code.

HB 184, by Representatives Bentley, Stumbo, Mason and Hatcher: AN ACT relating to crimes and punishments.

HB 185, by Representatives Freibert and Stokes: AN ACT relating to child day-care and making an appropriation therefor.

HB 186, by Representative Long: AN ACT relating to sports officials.

HB 187, by Representative Long: AN ACT relating to nuisance abatement.

HB 188, by Representative White: AN ACT relating to health departments.

HB 189, by Representative White: AN ACT relating to public health.

HB 190, by Representative Hancock: AN ACT relating to the Kentucky Lottery Corporation.

HB 191, by Representative Lewis: AN ACT relating to retirement.

HJR 17, by Representatives Yates, Lile, Butler, Casebier: A JOINT RESOLUTION directing the Secretary of Transportation to include a project connecting the Greenbelt Highway to the Snyder Freeway in the 1990 six-year plan.

HR 18, by Representatives Bruce and Morris: A RESOLUTION deploring unnecessary increases in the prices of petroleum products, and requesting an investigation.

HJR 19, by Representative Hancock: A JOINT RESOLUTION directing the Secretary of Transportation to name the new connector road between Wilkinson Boulevard and Louisville Road in Franklin County in honor of Mr. Buford Van Meter.

HR 20, by Representative Lear: A RESOLUTION amending the permanent rules of the House of Representatives.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 66, HB 75, HB 124, HB 127, HB 132, HB 140**

Appropriations and Revenue: **HB 5, HB 103, HB 145, HB 154, HB 157, HCR 4, HCR 9**

Banking and Insurance: **HB 52, HB 53, HB 98, HB 146, HB 148**

Business Organizations and Professions: **HB 45, HB 69, HB 115, HB 131, HB 171**

Cities: **HB 19, HB 59, HB 156**

Counties and Special Districts: **HB 49, HB 54**

Economic Development and Tourism: **HB 128, HB 137**

Education: **HB 42, HB 43, HB 60, HB 61, HB 71, HB 72, HB 88, HB 106, HB 109, HB 129, HB 136, HB 138, HB 163, HB 174, HB 175, HJR 5**

Elections and Constitutional Amendments: **HB 13, HB 14, HB 15, HB 16, HB 114, HB 116, HB 134, HB 143, HB 161, HB 166, HB 170, HJR 2**

Energy: **HB 20, HB 74, HB 78**

Health and Welfare: **HB 79, HB 81, HB 86, HB 99, HB 101, HB 102, HB 107, HB 108, HB 112, HB 113, HB 117, HB 118, HB 119, HB 120, HB 121, HB 122, HB 123, HB 126, HB 130, HB 139, HB 141, HB 144 HB 158, HB 164, HB 165, HB 167, HB 169, HB 172**

Judiciary: **HB 1, HB 22, HB 23, HB 24, HB 25, HB 28, HB 38, HB 40, HB 50, HB 63, HB 77, HB 82, HB 85, HB 95, HB 105, HB 125, HB 133, HB 135, HB 177**

Labor and Industry: **HB 76, HB 100, HB 147, HB 149, HB 150, HB 151, HB 152, HB 162, HB 168**

Natural Resources and Environmental Protection: **HB 30, HB 31, HB 32, HB 33, HB 34, HB 35, HB 36, HB 37, HB 44, HB 46, HB 58, HB 67, HB 70, HB 80, HB 87, HB 142, HB 153, HB 173, HB 176**

State Government: **HB 29, HB 39, HB 47, HB 48, HB 56, HB 68, HB 83, HB 84, HB 91, HB 94, HB 104, HB 159, HR 3, HCR 6, HJR 8, HR 15**

Transportation: **HB 26, HB 27, HB 41, HB 51, HB 55, HB 57, HB 73, HB 90, HB 110, HB 111, HB 160**

Report of Committees

The Committee on Economic Development and Tourism reported **HB 18, HB 89, HB 92,** and **HB 155** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 18, AN ACT relating to the State Fair Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.090 is amended to read as follows:

(1) The State Fair Board shall be composed of fifteen (15) members, as follows:

(a) The Governor;

(b) The commissioner;

(c) The dean of the College of Agriculture of the University of Kentucky;

(d) ***The secretary of the Tourism Cabinet;***

(e) Ten (10) [~~Nine (9)~~] members appointed from the state at large by the Governor with due consideration to geographical distribution throughout the state; ***and***

(f)[~~(e)~~] One (1) member appointed by the Governor selected from a list provided by the Kentucky Association of Fairs and Horse Shows of six (6) eligible members of the association[~~; and~~

~~(f) One (1) member shall be appointed from the state-at-large by the president pro tempore of the Senate of the Kentucky General Assembly and one (1) member shall be appointed from the state-at-large by the Speaker of the House of Representatives of the Kentucky General Assembly~~].

(2) The terms of the appointed members of the board shall be for four (4) years, dating from the beginning of the terms for which they were respectively appointed, and until their successors are appointed and qualify. As the terms of each group of members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed and qualify. Beginning with the appointments to be made for the terms commencing December 12, 1948, one (1) member of the first group of successor members to be appointed shall be appointed from a list of six (6) nominees consisting of three names from each of the two (2) political parties polling the largest number of votes in the state at general elections submitted to the Governor by the governing body of the Kentucky Livestock Improvement Association, and beginning December 12, 1972, one (1) member of the first group shall be appointed from a list of six (6) nominees so submitted by the governing body of the Kentucky State National Farmers Organization; one (1) member of the second [~~such~~] group shall be appointed from a list of six (6) nominees so submitted by the governing body of the American Saddle Horse Breeders Association; and one (1) member of the third group shall be appointed from a list of six (6) nominees so submitted by the governing body of the Kentucky Farm Bureau Federation. It is the intention of the General Assembly that the political affiliation of the appointed members shall be as evenly divided as possible between the two (2) political parties polling the largest number of votes in the state at general elections.

(3) In case of a vacancy among the appointed members of the board, the unexpired term so occurring shall be filled pursuant to the requirements and procedures for original appointments.

HB 89, AN ACT relating to the compensation of State Fair Board members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.120 is amended to read as follows:

The members of the State Fair Board shall be allowed their necessary traveling and hotel expenses, and shall be allowed ***one hundred*** [~~sixty-five~~] dollars ***($100)*** [~~($65)~~] per day for attending the meetings of the state fair board, which shall not exceed ninety-six (96) in number in any one (1) year, and for services rendered in carrying on the state fair.

HB 92, AN ACT relating to the Kentucky Center for the Arts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.400 is amended to read as follows:

(1) It is the finding of the General Assembly that cultural opportunities and the arts have a direct and positive impact on the hotel industry through promotion of tourism and convention trade. The Kentucky Center for the Arts will serve as catalyst in the development of Louisville and Jefferson county as a major convention and entertainment center. The Kentucky Center for the Arts Corporation will have as management priority the stimulation of the Jefferson county hotel industry and promotion of tourism through:

(a) The presentation of Kentucky and Louisville-area and nationally and internationally prominent arts activities which will attract regional audiences;

(b) Regional and national promotion of events occurring within the ***Commonwealth*** [~~center~~], along with ancillary ***services and*** activities;

(c) The development, in conjunction with local hotels ***and the arts and entertainment industry***, of tourist packages including performance and group plans;

(d) The active solicitation of arts related conferences and conventions;

(e) The active participation with local hotels and convention bureaus in attracting non-arts related conferences and conventions, with the center serving as an important amenity;

(f) The development of a Kentucky folklore program which will attract participants and an audience from throughout the state;

(g) The contribution to cultural diversity and the attractiveness of Louisville and Jefferson county as a year-round tourist and entertainment attraction.

(2) For these reasons, the General Assembly concludes that the dedication of additional revenues from the increased transient room tax authorized in counties containing first class cities to the Kentucky Center for the Arts Corporation will directly benefit the Jefferson county hotel industry, and that this dedication symbolizes the integral relationship between the Kentucky center and promotion of the Jefferson county hotel industry, created by KRS 153.400 to 153.460.

Section 2. KRS 153.420 is amended to read as follows:

The Kentucky Center for the Arts Corporation:

(1) Shall supervise construction of the Kentucky center for the arts in conjunction with the finance and administration cabinet, and shall provide all management functions for the facility and for any other property acquired or leased pursuant to its powers under this section;

(2) May take, acquire and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, lease or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in any manner provided by law. In the exercise of its power of eminent domain, it shall proceed in the manner provided in the Eminent Domain Act of Kentucky, KRS 416.540 to 416.680;

(3) ***May consult or enter into agreements with other segments of the arts and entertainment industry to provide technical, professional, or management support or assistance, consistent with its purpose and mission;***

(4) May issue revenue bonds, subject to procedures which shall be established by the Finance and Administration Cabinet, solely payable from the charges, revenues, rentals, and other funds pledged for their payment for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(5)[~~(4)~~] Shall promote the growth and development of the arts, convention trade, tourism and the hotel industry within Jefferson county and the Commonwealth, through utilization of the Kentucky center ***and activities authorized in this section*** to enhance these and the public interest;

(6)[~~(5)~~] May adopt administrative regulations, as provided in KRS Chapter 13A, governing the operation, maintenance or use of property under its custody and control;

(7)[~~(6)~~] May levy a surcharge on tickets for all functions held within the center to contribute to operating revenue;

(8)[~~(7)~~] May receive tax revenues from any governmental unit, and financial contributions of local governments, private persons and foundations;

(9)[~~(8)~~] Shall have exclusive control of all exhibitions, performances and concessions in the Center for the Arts. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center, and may sell such property upon ten (10) days notice to satisfy any indebtedness;

(10)[~~(9)~~] Shall develop in conjunction with local hotels, ***and the arts and entertainment industry,*** tourist packages including performance and group plans, and shall participate with local hotels and convention bureaus in attracting non-arts related conferences and conventions;

(11)[~~(10)~~] May establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by the corporation; and

(12)[~~(11)~~] May sue and be sued and maintain and defend legal actions in its corporate name.

Section 3. KRS 153.430 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation shall appoint an executive director, who shall hold office at its pleasure, and shall serve in a full-time capacity. The executive director shall be the chief administrative officer of the corporation and shall provide the staff direction and coordination in implementing the program and discharging the duties of the corporation. The executive director is authorized to act under direction of the corporation in employing necessary staff to perform its duties and exercise its powers as assigned by KRS 153.420.

(2) The staff shall keep all minutes, records and orders of the corporation, and shall be responsible for preservation of all such documents, which are public records subject to KRS 61.870 to 61.884. The staff shall also perform any other duties assigned by the executive director, with approval of the corporation.

(3) All revenues derived by the corporation from the use of the Kentucky Center for the Arts, or contributions ***to the Kentucky Center for the Arts*** from any other source as authorized in KRS 153.420, shall be solely used to defray the expenses of the Kentucky Center for the Arts, including payment on debt, the cost of management and operation of its facilities, the creation of an adequate reserve for repair, replacement, debt service and capital improvements, and the procurance of insurance and promotional activities. ***Any additional revenues in excess of amounts necessary to defray the actual costs and expenses properly related to the conduct of any activity authorized in KRS 153.420 derived by the corporation from any other source,***

or as a result of any other activity authorized in KRS 153.420, shall similarly be used solely for the purposes enumerated in this section. An annual audit of ***all*** funds of the corporation ***and its affiliated entities*** shall be made by the State Auditor of Public Accounts, and reported to the Governor.

HB 155, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Sections 1 through 11 of this Act may be cited as the "Kentucky Jobs Development Act."

SECTION 2. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that some areas within the Commonwealth have suffered persistent, severe economic distress, and that these areas are in need of special assistance and extraordinary consideration by state government in the application of various state economic development programs by targeting public resources to local governments and to qualified businesses within these areas to create jobs, to retain and to upgrade existing employment, to stimulate economic growth and development, and to reverse trends of prolonged periods of area dilapidation and economic decay by facilitating the upgrade of public infrastructure and by attracting private investments. It is not the intent of this Act to supplant existing state economic development programs, but rather, to enhance the application of those programs in those areas of the Commonwealth which are suffering from persistent, severe economic distress.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 through 13 of this Act, unless the context otherwise requires:

(l) "Board" means the governing body of any local governmental entity in which a job development district is located.

(2) "Certified qualified business" or "certified qualified business entity" means any new or existing qualified business within a job development district which has been certified by the department and the board as eligible to participate under the provisions of Sections 9 through 11 of this Act. No existing qualified business shall be certified unless an owner, agent, or other person authorized to act on behalf of the business stipulates in writing that the business will increase its total number of full-time permanent employes within the district by fifteen percent (15%) within a twelve (12) month period immediately following certification.

(3) "Department" means the Kentucky Department for Local Government.

(4) "District" means a job development district as provided under Sections 1 through 11 of this Act.

(5) "Local government" means any city, county or urban-county government.

(6) "Local legislative body" means the official legislative body for any city or urban-county government, or the fiscal court for any county.

(7) "Project" means public facilities and economic development infrastructure, and any new construction of a new qualified business facility, or the new construction, rehabilitation, or remodeling of an existing qualified business facility, located within a designated job development district, which has been qualified by the department and the appropriate local government as being eligible for financial assistance and other initiatives as prescribed in Sections 9 through l1 of this Act.

(8) "Existing qualified business" or "existing business entity" means any person, corporation, limited partnership or other entity which is actively engaged in the conduct of a business or trade within a job development district at the time of designation.

(9) "New qualified business" means any person, corporation, limited partnership, or other entity, which after the date of designation as a job development district, becomes actively engaged in a business or trade within the district, and in which at least fifty percent (50%) of its employees perform substantially all their services within the district.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) Any city, county, or urban-county government within this Commonwealth which, as prescribed in Section 5 of this Act, is found to be eligible to participate in the provisions of this Act, may request by act of the local legislative body that the department designate an area within its respective jurisdiction as a job development district. All requests shall be in writing in the manner prescribed by this Act and by the department, and shall include, but not be limited to the following:

(a) A metes and bounds description of the area;

(b) The total estimated population of the area;

(c) The number of persons employed within the area, and, if available, by one digit standard industrial classification code as provided in the "Standard Industry Classification Manual" as published by the United States Office of Management and Budget;

(d) A listing by street address of all abandoned commercial and industrial buildings and facilities within the area which have been abandoned within the preceding sixty (60) month period;

(e) The estimated value of all new, rehabilitated, and remodeled commercial and industrial construction within the area for the preceding twenty-four (24) month period; and

(f) The total assessed valuation of all existing commercial and industrial property with the area as listed by the county property valuation administrator.

(2) Nothing contained within this Act shall preclude two (2) or more cities, counties, urban-county governments, or any combination thereof, from requesting the department to designate an area within their collective jurisdiction as a district. However, after the proposed area is designated and before the designation shall become effective, each concerned local legislative body shall enter into an interlocal governmental agreement as provided by KRS 65.210 to 65.300.

(3) The boundaries of any district may be amended by the department upon proper application by the appropriate local governmental entity. However, no prerequisite eligibility requirements prescribed in Section 5 of this Act shall be diminished as a result of the amendment.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) No city, county, or urban-county government shall be eligible to participate under the provisions of this Act, unless the county or counties in which the proposed area is located meet the following criteria:

(a) A county per capita personal income not greater than seventy-five percent (75%) of the state per capita personal income for the most recent annual reporting period for which data is available;

(b) A county unemployment rate that exceeds the state unemployment rate for the most recent twelve (12) month reporting period for which data is available; and

(c) An average county unemployment rate for the preceding five (5) years for which data is available, which is at least one hundred fifty (150%) percent greater than the average state unemployment rate for the same reporting period.

(2) Any area of a city, county, or urban-county government eligible to participate under the provisions of this Act, may be designated by the department as a job development district if:

(a) The boundaries of the proposed district are continuous; and

(b) The area has experienced severe economic distress during the preceding twenty-four (24) month period from the date the application is first made as evidenced by the following:

1. Abandonment of commercial or industrial buildings and facilities; and

2. The total value of an all new construction and rehabilitated and remodeling construction of commercial and industrial facilities during the preceding twenty-four (24) month period is less than ten percent (10%) of the total assessed valuation of all previously existing commercial and industrial tangible properties within the area.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of an application from a local government, the department, upon consultation with the Cabinet for Economic Development, shall review the application and determine whether the area described in the application complies with the eligibility requirements as prescribed in Section 5 of this Act.

(2) The department shall complete its review within ninety (90) days from the date of receipt of the application, but it may extend this time period for an additional sixty (60) days, if warranted.

(3) Any incomplete application shall be returned by the department to the chief executive of the applicant local government, by certified first class mail, with an explanation of all deficiencies found in the application. Any incomplete application which is later resubmitted shall be considered as a new application.

(4) In designating job development districts, the department shall give priority to those areas located within counties having recorded the highest average unemployment rate for the five (5) year period immediately preceding the date the application is made for which data is available.

(5) After the department has completed its review of an application and designates the specified area as a job development district, the local legislative body of the applicant local governmental entity shall create and establish by ordinance the job development district. The local governmental entity's legislative body shall constitute the board of a job development district. The provisions of Section 9 of this Act shall not become effective for a job development district until final enactment of this ordinance.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(l) No more than one (l) job development district may be designated within a county.

(2) Any job development district created and established pursuant to this Act shall remain in effect for a period beginning on the date of designation and ending on December 3l of the seventh year following designation. However, the department may remove the designation of any district upon application of the appropriate local governmental entity, or upon proof that the original application is fraudulent.

(3) The total number of districts designated by the department pursuant to this Act shall not exceed seven (7). Furthermore, no district shall be designated after December 3l, l996.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Nothing contained in Sections 1 through 11 of this Act shall be construed as prohibiting a job development district from comprising an enterprise zone, or any portion thereof, as prescribed in KRS 154.655 to 154.705.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

If at least fifty percent (50%) of the employees of a certified qualified business entity located within a job development district, perform substantially all their services within the district, the following incentives and initiatives shall be available to that entity:

(a) Any project of a certified qualified business within a district shall be given preferential consideration for loans through the Kentucky Development Finance Authority as provided in KRS 154.005 to 154.180;

(b) Preferential assistance under state administered programs under the Job Training Partnership Act, as prescribed in Public Law 97-300, as amended, and Public Law 99-496, as amended, shall be provided to any certified qualified business, to the extent permissible by federal law;

(c) To the extent possible, any project of a certified qualified business within a district may be given preferential consideration for venture capital financing, under the Commonwealth venture fund, as provided in KRS 155.410 to 155.490; and

(d) Preferential consideration for funding assistance under the Community development block grant program, as administered by state government.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Any administrative body which promulgates administrative regulations pursuant to KRS Chapter 13A, may, by regulation, exempt job development districts from the provisions of any regulation, in whole or in part, promulgated by that administrative body, but no job development district shall be exempted from the provisions of any regulations, if the exemption endangers public health, public safety, or public welfare.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) Any infrastructure project located within a job development district shall be given preferential consideration for financial assistance under the provisions of KRS 224A.020 to 224A.260.

(2) Preferential consideration for funding and assistance shall be given to any public facilities and economic infrastructure project located within a job development district which is eligible for assistance under the provisions of any of the following federally funded, state administered programs:

(a) The Appalachian Regional Commission;

(b) The Community Development Block Grant Program;

(c) The United States Economic Development Administration Program; and

(d) The lower Mississippi River Delta Development Commission.

Section 12. KRS 154.051 is amended to read as follows:

(1) Insurance, guarantees, or letters of credit provided or procured pursuant to KRS 154.045 and 154.047 shall be provided or procured only for projects within this state which are consistent with the purposes and objectives of the authority and this chapter.

(2) The authority shall give paramount priority in providing or procuring insurance, guarantees, and letters of credit to projects which have the greatest potential for creating new jobs or retaining current jobs within this state ***including projects within a designated job development district established pursuant to Section 1 to 11 of this Act.***

Section 13. KRS 224A.040 is amended to read as follows:

(1) The authority may, pursuant to the terms, conditions, restrictions and requirements of this chapter, lease an infrastructure project or make loans or grants as funds are available, to any governmental agency, or purchase obligations of a governmental agency, to assist the governmental agency to carry out the construction or acquisition of infrastructure projects.

(2) Pursuant to Section II of this Act, the authority shall give preferential consideration for funding of any infrastructure project located within a designated job development district, KRS 224A.II2 notwithstanding.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 113**

State Government: **HB 2**, **HB 7** and **HCR 1**

Motions, Petitions and Communications

Representative B. Richardson moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative B. Richardson moved the adoption of the following Legislative Citation No. 2. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Howard N. Bowman for his immeasurable contributions to his community, county and state and wishes him well upon his retirement from public service.

Whereas, for many years he utilized his talents as a public school teacher, excelling in educating the youth of Barren County, and he capped his career by providing untiring and dedicated public service as a member of the Barren Fiscal Court, and

Whereas, his retirement is a loss to the citizens of Barren County and his wise counsel, and his concern for the betterment of his community will be sorely missed in the councils of government.

Now, therefore, the General Assembly of the Commonwealth of Kentucky does hereby acknowledge the exemplary public service of Howard N. Bowman and extends him best wishes and goodspeed for the future.

Announcements

Committee on Cities will meet at 12 noon, Room 109, Thursday, January 4, 1990.

Committee on Judiciary will meet at 9:00 a.m., Thursday, January 4, 1990.

Committee on Banking and Insurance will meet at 1:00 p.m., Room 101, Thursday, January 4, 1990.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representative Hatcher; **HB 16**, Representative Bruce; **HB 26**, Representative White; **HB 62**, by Representatives Barrows, Hatcher, Lear, Mason, P. Richardson, Riner, White; **HB 97**, Representative Castleman; **HB 99**, Representative Lear; **HB 113**, Representative P. Richardson; **HB 141**, Representatives

Donnermeyer, K. Harper, Walker; **HB 143**, Representative Walker; **HB 144**, Representative Stokes; **HJR 8**, Representative Moberly; **HR 18**, Representative Ballard.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 4, 1990.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 1—Representative LeMaster.

The motion to adjourn was adopted.

THURSDAY, JANUARY 4, 1990

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Larry Cook, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 3, 1990 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 192, by Representative Morris: AN ACT relating to banking.

HB 193, by Representatives Farrow and Gedling: AN ACT relating to salary supplements for police officers.

HB 194, by Representative Brown: AN ACT relating to underground storage tanks.

HB 195, by Representative Noe: AN ACT relating to descent and distribution.

HB 196, by Representative Geveden: AN ACT relating to park rangers.

HB 197, by Representatives Farrow, T. Jones, Long, Hancock, Crupper, Napier, Turner and Noland: AN ACT relating to public employe benefits.

HB 198, by Representatives K. Harper, Walker, Stokes, Freibert, Strong, Reinhardt and Northup: AN ACT relating to campaign practices.

HB 199, by Representative K. Harper: AN ACT relating to intestate succession.

HB 200, by Representatives K. Harper, Walker, Stokes, Freibert, Strong, Reinhardt and Northup: AN ACT relating to election offenses and penalties.

HB 201, by Representative K. Harper: AN ACT relating to offenses by juveniles.

HB 202, by Representatives K. Harper, Walker, Stokes, Strong, Freibert, Ackerson, Casebier and Northup: AN ACT relating to campaign finance.

HB 203, by Representatives Barrows and Hancock: AN ACT relating to insurance for state employees.

HB 204, by Representative Little: AN ACT relating to transportation.

HB 205, by Representative Little: AN ACT relating to teachers' retirement.

HB 206, by Representative Little: AN ACT relating to motor vehicles.

HB 207, by Representative Little: AN ACT relating to insurance.

HB 208, by Representative Johnson: AN ACT relating to public advocacy attorneys.

HB 209, by Representative Little: AN ACT relating to motor vehicle taxes.

HB 210, by Representative Little: AN ACT relating to insurance.

HB 211, by Representatives Long and Hancock: AN ACT relating to state employees.

HR 21, by Representative Worthington: A RESOLUTION adjourning the House in memory and honor of Herbert F. "Herdie" Fern.

HCR 22, by Representatives Bruce, Morris, Ridley, P. Richardson and Ballard: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to re-establish the Subcommittee on Veterans' Affairs.

HR 23, by Representative Noe: A RESOLUTION honoring Ashland Oil, Inc. for its activities in support of the Commonwealth's teachers.

HCR 24, by Representative Mack: A CONCURRENT RESOLUTION establishing a Task Force on Boarding Homes.

HJR 25, by Representatives J. Harper, Siler, Turner, Mason, Zimmerman, Todd, Blevins, Noland, Ford, Mullinix, Napier, Maggard, Jensen and Walker: A JOINT RESOLUTION authorizing the reimbursement of local districts for actual costs incurred in the education suit, Rose versus Council for Better Education.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 178**

Banking and Insurance: **HB 181, HB 183**

Cities: **HB 187**

County and Special Districts: **HB 191**

Health and Welfare: **HB 185, HB 188, HB 189**

Judiciary: **HB 179, HB 180, HB 182, HB 184, HB 186**

State Government: **HB 190, HR 18, HR 20**

Transportation: **HJR 17, HJR 19**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 101, HB 107, HB 108, HB 123, HB 126, HB 158, HB 165, HB 172**

Education: **HB 60, HB 136, HB 174, HB 175**

Labor: **HB 93, HB 147, HB 149, HB 150, HB 151, HB 152**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 6** and **HB 8** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT relating to architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323.031 is amended to read as follows:

(1) If the drawings and specifications are signed by the author thereof with the true titles of their occupations as may be required by law, this chapter does not apply to:

(a) Any building which is to be used for farm purposes only;

(b) Any building classified by use group other than those listed under KRS 323.033;

(c) Any structure not classified as a building by KRS 323.010(4).

(2) Provisions of this chapter shall not apply to:

(a) Any individual, partnership, or firm acting solely as a consultant to an architect licensed in the Commonwealth;

(b) An architect or other person acting solely as an officer or employe of the United States government.

(3) A licensed professional engineer may prepare plans and specifications for and supervise the construction of structures as an incident to the practice of his own profession.

Section 2. KRS 323.033 is amended to read as follows:

(1) Except as otherwise provided ***in this section*** [~~hereinafter~~], the following buildings, or additions to existing buildings, classified by use group shall require the services of an architect licensed in the Commonwealth of Kentucky;[~~:~~]

(a) Assembly use group having a capacity of one hundred (100) persons or more***, except church buildings having a capacity of four hundred (400) persons or less or six thousand (6,000) square feet or less***;

(b) Business use group having a capacity of one hundred (100) persons or more;

(c) Institutional use group, regardless of capacity;

(d) Mercantile use group having a capacity of one hundred (100) persons or more;

(e) Residential use group of more than twelve (12) dwelling units or having a capacity of fifty (50) persons or more;

(f) ***Educational use groups regardless of capacity; and***

(g) Mixed use group containing one (1) or more of the use group classifications and capacities listed under paragraphs (a) through ***(f)*** [~~(e)~~] of this subsection.

(2) Alterations or new construction requiring compliance with the Kentucky Building Code for any building containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require the services of an architect licensed in the Commonwealth of Kentucky; except that, when such alterations or new construction predominantly involve primarily structural components or mechanical or electrical systems, services may be performed by one (1) or more licensed professional engineers.

(3) Buildings, or additions to existing buildings, containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require, in addition to the services of an architect, the services of one (1) or more licensed engineers.

(4) The following buildings and additions to existing buildings, classified by use group, shall require the services of either an architect or a professional engineer registered in the Commonwealth of Kentucky.

(a) Factory and industrial use group having a capacity of one hundred (100) persons or more;

(b) High hazard use group, regardless of capacity;

(c) Storage use group having a capacity of one hundred (100) persons or more***; and***

(d) Utility and miscellaneous use groups having a capacity of one hundred (100) persons or more.

Section 3. KRS 323.050 is amended to read as follows:

(1) To obtain a license to practice architecture in Kentucky applicants must satisfactorily pass such examinations as are prescribed by the board, except as otherwise provided in this chapter.

(2) Every applicant for examination shall fulfill the following requirements:

(a) ***Shall*** [~~Must~~] be of good moral character;

(b) ***Shall*** [~~Must~~] be a legal resident of the Commonwealth of Kentucky except as otherwise prescribed by board regulations [~~and must be at least twenty-five years of age~~]; and

(c) ***Shall hold a professional degree in architecture accredited by the National Architectural Accrediting Board (NAAB)*** [~~Must be a graduate of an accredited school of architecture~~], or the equivalent thereof as determined by board regulations, with such additional experience as the board may prescribe and approve.

(3) Examinations shall be given at least annually, the time and place to be established by the board.

Section 4. KRS 323.080 is amended to read as follows:

(1) Fees for the following services shall be established by the rules of the board, and in no case shall they exceed the following schedule:

(a) For an examination	$***100.00***[~~50.00~~]
(b) For a license certificate upon satisfactorily passing the examination	25.00
(c) For the restoration of a voluntarily surrendered license	50.00
(d) For a license to an architect satisfactorily licensed in another state or country	75.00
(e) For reinstatement of a license revoked for failure to pay the annual renewal fee ***or suspended by the board,*** in addition to application and arrears as determined by the board	50.00

(f) Renewal certificate . . . . ***45.00***[~~35.00~~]

(2) The proper fee as prescribed above shall be paid to the board, and shall not be refunded in whole or in part.

(3) Applicants for the examination shall be charged, at actual cost to the board, for the use of each set of examination questions required.

Section 5. KRS 323.095 is amended to read as follows:

(1) Each architect licensed for practice within the commonwealth shall secure an embossed circular seal of the design prescribed by regulation of the board.

(2) All working drawings, specifications and reports prepared by, or under the supervision of the individual, partnership or firm, must bear the imprint of this seal.

(3) No architect shall sign or affix his seal to any drawings, specifications or reports which have not been prepared ***by him personally or*** under his immediate supervision.

Section 6. KRS 323.110 is amended to read as follows:

(1) (a) All architects desiring to continue practice shall annually, prior to July 1, secure from the board a renewal certificate upon the payment of the prescribed fee. Not later than June 15 of each year the board shall notify by mail all architects of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the architect shall furnish the information required by such form.

(b) Failure of any architect to secure his renewal certificate within sixty (60) days after July 1 shall constitute automatic revocation of his license.

(c) The board may ***reissue*** [~~restore~~] a license that has been revoked for failure to pay the renewal fee upon proper application as determined by the board and the payment of all delinquent fees as directed.

(2) A licensed architect may voluntarily surrender his license to the board and thereby be relieved of the annual renewal fee. After surrendering his license, he shall not be known as a licensed architect and shall desist from the practice thereof. Within five (5) years from the time of surrender of the license he may again qualify for a license without examination by the payment of the required fee and current renewal fee. If five (5) years thereafter have elapsed, he shall return to the status of a new applicant.

Section 7. KRS 323.120 is amended to read as follows:

(1) The board may refuse to ***issue, reissue or*** renew or may ***issue a private or public reprimand or may probate,*** suspend or revoke the license of any architect to practice architecture in the Commonwealth of Kentucky for any of the following reasons:

(a) Gross incompetency or gross negligence in the planning or construction of buildings, as determined by the board;

(b) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;

(c) Conviction of a felony;

(d) Fraudulent or dishonest architectural practice;

(e) Use of false evidence or misrepresentations in an application for licensing; or

(f) Signing or affixing his seal to any plans, prints, specifications of buildings, or reports, which have not been prepared by him personally or by his employes under his supervision.

(2) The board shall revoke the license of an architect who practices architecture while his license is suspended.

(3) The board at its discretion, in lieu of or in addition to other penalties, may impose a civil penalty not to exceed three thousand dollars ($3,000), which shall be paid to the benefit of the board's trust and agency account.

Section 8. KRS 323.130 is amended to read as follows:

(1) ***(a) In any action taken pursuant to KRS 323.120 the board shall conduct a hearing. The hearing may be conducted by the full board or at its designation, a member thereof, a panel of the board, a hearing officer, or a combination of the foregoing;***

(b) If the hearing is conducted by less than a majority of the full board, or by a hearing officer, the board members or hearing officer, as the case may be, may only recommend the action to be taken and the recommendations shall be subject to review by a majority of the full board, which shall take final action in regard to the recommendation; and

(c) [~~No license shall be revoked or suspended without a hearing.~~] The board may proceed against a licensee on its own initiative, on the basis of either information contained in its own records or information obtained through its informal investigation. ***If*** [~~When~~] a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if true would warrant ***action pursuant to Section 7 of this Act,*** [~~suspension or revocation of a license,~~] the board ***may*** [~~shall~~] proceed against the licensee [~~within three (3) months~~].

(2) A written notice stating grounds for possible ***disciplinary action affecting*** [~~suspension or revocation of~~] the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the ***respondent*** [~~accused~~] not less than twenty (20) days prior to the date of the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the address of the ***respondent*** [~~accused~~] last known to the board.

Section 9. KRS 323.140 is amended to read as follows:

(1) The board, or any ***designated*** member thereof ***or hearing officer,*** may issue subpoenas to compel the attendance of witnesses and the production of documents ***for any investigation or hearing*** and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of ***the*** [~~such~~] court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(2) At any hearing the ***respondent*** [~~accused~~] may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The ***respondent*** [~~accused~~] shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The board may also be represented by counsel.

(3) The board shall not be bound by technical rules of evidence, but the order of the board shall be based on competent evidence.

(4) A [~~stenographic~~] record of the proceedings shall be kept, but [~~it~~] shall not be ***transcribed*** [~~necessary to transcribe shorthand notes~~] unless an appeal is taken from the order.

(5) The board's order shall be in writing and shall be accompanied by findings of fact and conclusions of law.

(6) A copy of ***any*** [~~an~~] order ***entered*** [~~suspending or revoking a license~~] shall be served upon the licensee by certified mail, return receipt requested immediately upon entry by the board. Any license that is suspended or revoked shall be surrendered to the board accompanied by the licensee's certificate.

Section 10. KRS 323.145 is amended to read as follows:

(1) Any person whose license ***or application is affected by the boards' order may appeal from the order*** [~~is revoked by the board may appeal from the order of revocation~~] by filing in the Franklin Circuit Court a petition for appeal and a copy of the order of the board within ***thirty (30)*** [~~sixty (60)~~] days of the date of entry of the order. He shall make bond for costs. The petition for appeal shall set forth with particularity the grounds upon which the appeal is taken. The licensee shall cause a copy of the petition for appeal to be served upon the secretary of the board.

(2) Within thirty (30) days after service of notice of appeal, or within such further time as the court may allow, the board shall file in the Franklin Circuit Court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of the parties, the record may be shortened.

(3) The filing of the petition for appeal shall not stay enforcement of the order; but upon motion of appellant the Franklin Circuit Court, in its discretion, may order a stay pending decision of the appeal. If the time for renewal of the license occurs during a stay of enforcement, the board shall grant a renewal upon application properly made and payment of the usual fees.

(4) The Franklin Circuit Court shall set the case for hearing without a jury and dispose of the appeal in a summary manner, being confined to the record made before the board except that new evidence may be introduced as to fraud. The court may hear oral arguments and receive written briefs. The court may affirm or set aside the board's order, or may remand the case to the board for further evidence, but shall be limited in making its decision to determining whether or not:

(a) There is any substantial evidence to support the order; or

(b) The board acted without or in excess of its power; or

(c) The order appealed from was procured by fraud.

(5) Any aggrieved party may secure a review of an adverse judgment of the Franklin Circuit Court under this chapter by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided in the Rules of Civil Procedure.

Section 11. KRS 323.150 is amended to read as follows:

The board shall consist of ***seven (7)*** [~~five (5)~~] members ***six (6)*** [~~four (4)~~] of whom shall be appointed by the governor. The ***seventh*** [~~fifth~~] member of the board shall be the ***chief executive officer of any NAAB accredited architectural curriculum established in the Commonwealth of Kentucky, who shall be an ex officio member with voting rights*** [~~dean of the college of engineering of the University of Kentucky. But if at any time a five-year professional curriculum of architecture is established in the commonwealth of Kentucky, the head of such curriculum shall replace the dean of the college of engineering of the University of Kentucky as a member of the board~~].

Section 12. KRS 323.170 is amended to read as follows:

Five (5) [~~Three (3)~~] members of the board appointed by the governor shall be architects registered in the Commonwealth of Kentucky and shall have been in the active practice of architecture for at least ten (10) years immediately preceding their appointment, and shall have been residents of this Commonwealth for at least five (5) years immediately preceding their appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

Section 13. KRS 323.190 is amended to read as follows:

Each member of the board shall receive an amount not to exceed ***seventy-five*** [~~twenty-five~~] dollars ***($75.00)*** [~~($25.00)~~] for each day or part thereof spent in the performance of his official duties, including time spent in necessary travel, and in addition, shall be reimbursed for all proper traveling and incidental expenses incurred in connection with said duties.

Section 14. KRS 323.990 is amended to read as follows:

Any person who violates any provision of this ***Act*** [~~chapter~~] shall be fined not less than ***five*** [~~one~~] hundred dollars ***($500)*** [~~($100)~~] nor more than ***three thousand dollars ($3,000)*** [~~five hundred dollars ($500)~~], or imprisoned not more than three (3) months, or both.

Section 15. KRS 323.030 is hereby repealed:

HB 8, AN ACT relating to barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.440 is amended to read as follows:

(1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit or fraud in the practice or teaching of barbering, the barber board shall prescribe reasonable rules and regulations:

(a) Governing the location and housing of barber shops or schools;

(b) Governing the quantity and quality of equipment, supplies, materials, records and furnishings required in barber shops or schools;

(c) Governing the training and supervision of barber apprentices;

(d) Governing the qualifications of teachers of barbering;

(e) Governing the hours and courses of instruction at barber schools;

(f) Governing the examinations of applicants for barber, apprentice barber or teacher of barbering.

(2) ***The board shall set fees by regulation in accordance with the schedules set out in KRS 317.450.***

(3) Regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for human resources before becoming effective.

Section 2. KRS 317.450 is amended to read as follows:

(1) The barber board shall issue a license to practice barbering to any person who:

(a) Is at least eighteen (18) years of age;

(b) Is of good moral character and temperate habit;

(c) Has acted as a licensed apprentice for at least ***twelve (12)*** [~~eighteen (18)~~] months under the immediate supervision of a licensed barber;

(d) Has satisfactorily passed the examination prescribed by the barber board;

(e) Has paid a fee ***not to exceed fifty dollars ($50)*** [~~of twenty dollars ($20.00)~~].

(f) The board may reciprocate with other states and issue a barber license upon payment of a fee of fifty dollars ($50.00) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. The board may require an applicant under this section to pass an examination to establish equivalency.

(2) The barber board shall issue a license to act as apprentice to a barber to any person who:

(a) Is at least sixteen and one-half (16 1/2) years of age;

(b) Is of good moral character and temperate habit;

(c) Has at least four (4) years of high school education;

(d) Has graduated from an accredited or licensed school of barbering;

(e) Has satisfactorily passed the examination prescribed by the barber board; and

(f) Has paid a fee ***not to exceed fifty dollars ($50)*** [~~of twenty dollars ($20.00)~~].

(3) The barber board shall issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application of ***the*** [~~such~~] barber accompanied by a fee ***not to exceed fifty dollars ($50).*** [~~of twenty dollars ($20.00) provided that~~] The barber board shall refuse to issue ***the*** [~~such a~~] license upon a failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto.

(4) The barber board shall issue a license to operate a school of barbering to any person, firm or corporation who or which:

(a) Applies [~~therefor~~] upon forms furnished by the board;

(b) Has the equipment and facilities which may be required by rules and regulations of the board adopted pursuant to this chapter;

(c) Furnished any evidence deemed necessary by the board in the exercise of a sound discretion that it is the purpose of the applicant to establish a bona fide school for the education and training of competent barbers and can and will employ a sufficient number of licensed teachers of barbering to conduct such school;

(d) Has furnished evidence of having at least twenty-four (24) months experience teaching in a barber school, including administrative experience in such school;

(e) Pays a fee ***not to exceed one hundred and fifty dollars ($150)*** [~~of one hundred dollars ($100)~~].

(5) The barber board shall issue a license to teach barbering to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has been a licensed and practicing barber for at least thirty-six (36) months;

(d) Has satisfactorily passed the examination prescribed by the board; and

(e) Has paid a fee ***not to exceed fifty dollars ($50)*** [~~of twenty-five dollars ($25.00)~~].

(6) Applications for examination required in this section shall be accompanied by an examining fee as follows:

(a) Barber — ***not to exceed fifty dollars ($50)*** [~~$20.00~~];

(b) Apprentice to a barber — ***not to exceed fifty dollars ($50)*** [~~$20.00~~];

(c) Teaching barbering — ***not to exceed fifty dollars ($50)*** [~~$25.00~~].

(7) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance but the board shall renew any license so expiring at no increased renewal fee if the required annual renewal license fee is paid within thirty-one (31) days after the expiration of such license, provided that the applicant for a renewal is otherwise in compliance with this chapter and the rules and regulations of the board adopted pursuant thereto. Any license shall automatically be renewed by the board upon receipt of the required annual license fee prior to the expiration date of such license, provided the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto.

(8) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Barber — ***not to exceed fifty dollars ($50)*** [~~$20.00~~];

(b) Apprentice to barber — ***not to exceed fifty dollars ($50)*** [~~$20.00~~];

(c) Teacher of barbering — ***not to exceed fifty dollars ($50)*** [~~$20.00~~];

(d) Barber shop — ***not to exceed fifty dollars ($50)*** [~~$20.00~~];

(e) Barber school — ***not to exceed one hundred fifty dollars ($150)*** [~~$75.00~~].

(9) Except as provided in subsection (7) of this section, the fee for the renewal of an expired license, where the period of expiration does not exceed five (5) years, shall be as follows:

(a) Barber — ***seventy-five dollars ($75)*** [~~$15.00~~] plus lapse fees;

(b) Apprentice — ***seventy-five dollars ($75)*** [~~$15.00~~] plus lapse fees;

(c) Barber shop — ***seventy-five dollars ($75)*** [~~$20.00~~];

(d) Barber school — ***seventy-five dollars ($75) plus lapse fees*** [~~$75.00~~];

(e) Teacher of barbering — ***seventy-five dollars ($75)*** [~~$15.00~~] plus lapse fees.

The Committee on Cities reported **HB 9**, with Committee Substitute attached thereto, and **HB 21** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 9, AN ACT relating to pension fund boards of trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.869 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees [~~of six (6) members, consisting of: (a) the mayor ex officio; (b) the city treasurer ex officio; (c) the chiefs of the police and fire departments ex officio; and (d) one (1) active member of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for a term of one (1) year under rules adopted by the board~~]. ***If there are fewer than six (6) active members of the fund, the board of trustees shall consist of four (4) members who shall be: (a) the mayor ex officio; (b) the city treasurer ex officio; and (c) one (1) retired member of each department who shall be elected by ballot by the retired members of the respective departments and shall serve for terms of one (1) year under rules adopted by the board. If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of each department elected by ballot by the active members of the respective departments and who shall serve for terms of one (1) year under rules adopted by the board. If all of the six (6) or more active members are from one (1) department, then both of the active member board members shall be elected from that department.*** In the event of a vacancy of an elected member, the pension board may fill the vacancy by appointment until the next regular election.

(2) ***The board of trustees membership shall be restructured according to the provisions of this Act at the time of the next scheduled election of board members after July 15, 1990.*** [~~It is the intention of KRS 95.852 to 95.884 and 95.991 that the present elected members of the pension board shall continue in~~

~~office as members of the board of trustees herein provided, shall succeed to the office of trustee under the provisions hereof and shall assume the duties and obligations as herein provided. Such members shall continue in office until the expiration of their respective terms of office, when elections shall be held for successors as herein provided.~~]

(3) Any member of the board convicted of an offense relating to mismanagement or embezzlement of the fund created pursuant to KRS 95.852 shall be removed from the board, and shall be prohibited from serving on the board thereafter. If the board member so removed is an ex officio member, the city council shall appoint a replacement until such time as another person shall fill the office entitled to a seat on the board. If the board member so removed is an active policeman or fire fighter, the board shall fill the vacancy by appointment of another active policeman or fire fighter, as the case may be, until the next regular election.

Section 2. KRS 95.530 is amended to read as follows:

(1) In cities of the third class ***where there are fewer than six (6) active members of the pension fund,*** the board of trustees of the policemen's and fire fighter's pension fund is composed of the mayor, city treasurer, [~~chief of the police department, chief of the fire department~~] and one (1) ***retired*** member each from the police and fire departments. The ***retired*** members from the police and fire departments shall be elected by the respective ***retired*** members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their respective successors are elected and qualified. The board shall select from their number a president and a secretary.

(2) If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of each department elected by the active members of the respective departments and who shall serve for one (1) year and until their respective successors are elected and qualified. If all of the six (6) or more active members are from one (1) department, then both of the active member board members shall be elected from that department.

(3) The board of trustees membership shall be restructured according to the provisions of this Act at the time of the next scheduled election of board members after July 15, 1990.

Section 3. KRS 95.622 is amended to read as follows:

(1) There shall be created in cities of the third class a policemen's and fire fighter's pension fund, and a board of trustees for that fund.

(2) In cities of the third class ***where there are fewer than six (6) active members of the pension fund,*** the board of trustees of the policemen's and fire fighter's pension fund shall be composed of the mayor, city treasurer, [~~chief of the police department, chief of the fire department~~] and one (1) ***retired*** member each from the police and fire departments shall be elected by the respective ***retired*** members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their successors are elected and qualified. ***If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of each department elected by the active members of the respective departments and who shall serve for one (1) year and until their successors are elected and qualified. If all of the six (6) or more active members are from one (1) department, then both of the active member board members shall be elected from that department.*** The board shall select from their number a president and a secretary. The board of trustees shall be the trustees of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund..

(3) The board of trustees may draw the pension fund from the treasury and invest it, in whole or in part, in the name of the board or nominee name as provided by KRS 287.225, as the board deems most advantageous for the objects of the fund, in a local government pension investment fund created pursuant to KRS 95.895 or in any other securities in which trustees are permitted to invest trust funds under the laws of this state. The securities shall be subject to the order of the board.

(4) The board of trustees membership shall be restructured according to the provisions of this Act at the time of the next scheduled election of board members after July 15, 1990.

The Committee Substitute to **HB 9** is as follows:

HB 9, AN ACT relating to pension fund boards of trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.869 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested

in a board of trustees [~~of six (6) members, consisting of: (a) the mayor ex officio; (b) the city treasurer ex officio; (c) the chiefs of the police and fire departments ex officio; and (d) one (1) active member of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for a term of one (1) year under rules adopted by the board~~]. ***If there are fewer than six (6) active members of the fund, the board of trustees shall consist of four (4) members who shall be: (a) the mayor ex officio; (b) the city treasurer ex officio; and (c) one (1) retired member of each department who shall be elected by ballot by the retired members of the respective departments and shall serve for terms of one (1) year under rules adopted by the board. If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of each department elected by ballot by the active members of the respective departments and who shall serve for terms of one (1) year under rules adopted by the board. If all of the six (6) or more active members are from one (1) department, then both of the active member board members shall be elected from that department.*** In the event of a vacancy of an elected member, the pension board may fill the vacancy by appointment until the next regular election.

(2) ***The board of trustees membership shall be restructured according to the provisions of this Act at the time of the next scheduled election of board members after July 15, 1990.*** [~~It is the intention of KRS 95.852 to 95.884 and 95.991 that the present elected members of the pension board shall continue in office as members of the board of trustees herein provided, shall succeed to the office of trustee under the provisions hereof and shall assume the duties and obligations as herein provided. Such members shall continue in office until the expiration of their respective terms of office, when elections shall be held for successors as herein provided.~~]

(3) Any member of the board convicted of an offense relating to mismanagement or embezzlement of the fund created pursuant to KRS 95.852 shall be removed from the board, and shall be prohibited from serving on the board thereafter. If the board member so removed is an ex officio member, the city council shall appoint a replacement until such time as another person shall fill the office entitled to a seat on the board. If the board member so removed is an active policeman or fire fighter, the board shall fill the vacancy by appointment of another active policeman or fire fighter, as the case may be, until the next regular election.

Section 2. KRS 95.530 is amended to read as follows:

(1) In cities of the third class ***where there are fewer than six (6) active members of the pension fund,*** the board of trustees of the policemen's and fire fighter's pension fund is composed of the mayor, city treasurer, [~~chief of the police department, chief of the fire department~~] and one (1) ***retired*** member each from the police and fire departments. The ***retired*** members from the police and fire departments shall be elected by the respective ***retired*** members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their respective successors are elected and qualified. The board shall select from their number a president and a secretary.

(2) If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of each department elected by the active members of the respective departments and who shall serve for one (1) year and until their respective successors are elected and qualified. If all of the six (6) or more active members are from one (1) department, then both of the active member board members shall be elected from that department.

(3) The board of trustees membership shall be restructured according to the provisions of this Act at the time of the next scheduled election of board members after July 15, 1990.

Section 3. KRS 95.622 is amended to read as follows:

(1) There shall be created in cities of the third class a policemen's and fire fighter's pension fund, and a board of trustees for that fund.

(2) In cities of the third class ***where there are fewer than six (6) active members of the pension fund,*** the board of trustees of the policemen's and fire fighter's pension fund shall be composed of the mayor, city treasurer, [~~chief of the police department, chief of the fire department~~] and one (1) ***retired*** member each from the police and fire departments shall be elected by the respective ***retired*** members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their successors are elected and qualified. ***If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of each department elected by the active members of the respective departments and who shall serve for one (1) year and until their successors are elected and qualified. If all of the six (6) or more active members are from one (1) department, then both of the active member board members shall be elected from that department.*** The board shall select from their number a president and a secretary. The board of trustees shall be the trustees of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) The board of trustees may draw the pension fund from the treasury and invest it, in whole or in part, in the name of the board or nominee name as provided by KRS 287.225, as the board deems most advantageous for the objects of the fund, in a local government pension investment fund created pursuant to KRS 95.895 or in any other securities in which trustees are permitted to invest trust funds under the laws of this state. The securities shall be subject to the order of the board.

(4) The board of trustees membership shall be restructured according to the provisions of this Act at the time of the next scheduled election of board members after July 15, 1990.

Section 4. KRS 95.767 is amended to read as follows:

(1) There shall be organized in connection with ***the*** [~~said~~] police and fire departments a board to be known as the board of trustees of the policemen's and fire fighter's pension fund. ***If there are six (6) or more active members of the fund, the board shall be composed of the mayor of the city, city treasurer, one (1) member of the city legislative body appointed by the mayor, one (1) retired member each from the police and fire departments elected by the respective retired members of those departments annually by ballot, and one (1) active member of each department elected by the active members of the respective departments annually. If all of the six (6) or more active members are from one (1) department, then both of the active member board members shall be elected from that department. If there are fewer than six (6) active members of the fund, no active members of the departments shall be elected to the board. The***[~~, which shall be composed of the mayor of the city, city treasurer, police chief and fire chief, and one (1) member of the city council or city commissioners appointed by the mayor of said city, and said~~] trustees shall select from their number a president and secretary. The city treasurer shall be ex officio treasurer of ***the*** [~~said~~] board and custodian of its funds.

(2) The board of trustees membership shall be restructured according to the provisions of this Act at the time of the next scheduled election of board members after July 15, 1990.

HB 21, AN ACT relating to the classification of cities.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Camargo, in Montgomery County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Camargo, in Montgomery County, is transferred from the sixth to the fifth class of cities.

The Committee on Banking and Insurance reported **HB 3** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT relating to the state employe benefit fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A.228 TO 18A.2284 IS CREATED TO READ AS FOLLOWS:

The self-funded plan may exclude coverage of services and supplies for conditions, diseases, ailments or accidental injuries arising out of or in the course of employment only if such services and supplies are covered by workers' compensation under KRS Chapter 342.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A.228 TO 18A.2284 IS CREATED TO READ AS FOLLOWS:

If the hospital and medical insurance coverage provided under KRS 161.675 contains any limitation for pre-existing conditions, a member of the teachers' retirement system who retires for disability under KRS 161.661 shall be offered the right to continue coverage under the self-funded plan until any such limitation has expired. The terms and conditions for continuation of group policies under KRS 304.18-110 shall apply to the continuation coverage offered under this section. Nothing in KRS 304.18-110 shall be construed to prevent the operation of this section.

Calendar

HB 18, **HB 89**, **HB 92** and **HB 155** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Stumbo moved that the waiver of the posting requirement for those Interim Joint Standing Committee pre-filed bills which received a favorable expression from the Committee, as passed by the House on Tuesday, January 2, 1990, be rescinded. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for the purpose of a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committee

The Committee on Rules reported **HB 18**, **HB 89**, **HB 92** and **HB 155** have been posted for passage in Orders of the Day, January 5, 1990.

Motions, Petitions and Communications (continued)

Representative Mason moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Mason moved the adoption of the following Legislative Citation No. 5. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and applauds Christopher White for his valiant actions in the rescue of his cousin from a swimming accident. A hero is a man noted for courageous acts or one who has risked or sacrificed his life. At the age of fourteen, Christopher acted unselfishly and nobly in the course to preserve another's life. His actions were directed by the love, guidance and respect for life received from his family.

This prestigious body joins Representative Paul Mason and Christopher's family in recognizing him as a hero and extends to him their best wishes.

Representative Stumbo moved that the rules be suspended for introduction of bills and committee reports. Agreed.

Introductions of Bills

HB 212, by Representatives Hancock, Crupper, T. Jones and Farrow: AN ACT relating to automobile insurance.

HB 213, by Representative Hancock: AN ACT relating to state employees.

HB 214, by Representatives Clarke and Lear: AN ACT creating the Kentucky Rules of Evidence.

HB 215, by Representative Hancock: AN ACT relating to retirement.

HB 216, by Representative Lear: AN ACT relating to standards of fiduciary care and performance.

HB 217, by Representative Lear: AN ACT relating to statutory liens.

HB 218, by Representatives Mason and Keith: AN ACT proposing to amend the Constitution of Kentucky relative to the railroad commission.

HB 219, by Representatives Reinhardt, Richards, Riner and Stokes: AN ACT relating to crimes and punishments.

HB 220, by Representatives Crupper and Hancock: AN ACT relating to activities in competition with private enterprise.

HB 221, by Representatives Blevins, Adkins, Siler, Mack, Mason, Hatcher, Grey, Maggard, Cline, Bentley, Moberly, Turner, Keith, Riner, B. R. Smith, Lefevers, Noland, Jackson, Crupper, Farrow, Johnson, Gedling, White, Bronger, Lyne and Richards: AN ACT relating to Vietnam veterans bonus.

HB 222, by Representative Cyrus: AN ACT relating to aviation.

HB 223, by Representative Cyrus: AN ACT relating to county surveyors.

HB 224, by Representative T. Jones: AN ACT relating to eradication of thistles.

HB 225, by Representative T. Jones: AN ACT relating to the Commission on the Deaf and Hearing Impaired.

HB 226, by Representative T. Jones: AN ACT relating to student loans.

HB 227, by Representative T. Jones: AN ACT relating to recording of instruments.

HB 228, by Representative T. Jones: AN ACT relating to service of process.

HB 229, by Representatives Hancock, T. Jones, Crupper, Farrow, Long, P. Richardson, Turner, Noland, J. Harper, K. Harper, Ark, Butler, Jackson, Arnold, Bronger, Morris, Sheehan, Castleman, Gedling, Cline, Ballard, Mack, Hourigan, A. Jones, Geveden, Lewis, Strong, Little, Reinhardt, Siler, Cyrus, Scorsone, Kerr, Bruce, B. R. Smith, Richards and Johnson: AN ACT relating to retirement.

HB 230, by Representative T. Jones: AN ACT relating to libraries.

HB 231, by Representative Jackson: AN ACT relating to unemployment insurance.

HB 232, by Representatives Hancock, Crupper, Farrow, Long, Barrows, T. Jones, Arnold, P. Richardson, Turner, Noland, J. Harper, K. Harper, Ark, Butler, Bronger, Morris, Sheehan, Castleman, Gedling, Lear, Cline, Ballard, Mack, Hourigan, A. Jones, Lewis, Geveden, Strong, Little, Siler, Reinhardt, Cyrus, Scorsone, Jackson, Bruce and Kerr: AN ACT relating to retirement sick leave credit.

HB 233, by Representatives Napier, Bruce, Farrow, Grey, J. Harper, O'Brien, Pritchett, Ballard, Nelson, Jensen, Zimmerman, Mullinix, White, Todd, Gedling, Noe, Barrows, Turner, Siler, Preston, Noland, L. Clark, Reinhardt, Moberly, Morris, Cyrus, Blevins, B. R. Smith, Strong, Lile, Geveden, Cline, Altman, Little, Layman, Lefevers and Ford: AN ACT relating to improving health and welfare and providing funding therefore.

HB 234, by Representatives T. Jones, Long, Barrows, Farrow, Crupper, Hancock, Moberly, Noe, Morris and Bruce: AN ACT relating to travel expenses of state officers and employees.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 4, HB 12**

Judiciary: **HB 28, HB 63, HB 77, HB 133, HB 186**

Appropriations and Revenue: **HB 103, HB 145, HB 157, HCR 4, HCR 9**

Health and Welfare: **HB 62, HB 64, HB 112, HB 119, HB 120**

Energy: **HB 20**

Representative Blevins moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Blevins moved the adoption of the following Legislative Citations No. 3 and No. 4. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mattie and Steward Lacy, lifelong residents of Morgan County, on this joyful occasion, your sixtieth wedding anniversary, December 30, 1989. The love and affection that has filled your lives has touched those close to you. God blessed you with his priceless gift of love — your children. Your commitment to the union of marriage and family has been shared with your three children, fourteen grandchildren and seventeen great-grandchildren.

May God continue to bless you and your family and may you have everlasting love, health and happiness.

This prestigious body joins Representative Blevins in extending to you our best wishes.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Ruby and A. J. Rather on this glorious occasion, your Golden Wedding Anniversary, January 14, 1990. The love and affection that has filled your lives has touched those close to you. God blessed you with his priceless gift of love — your daughters, Carole Fisher and Janie Baldridge.

May God continue to bless you and your family and may you have everlasting love, health and happiness.

This prestigious body joins Representative Blevins in extending to you our best wishes.

Representative Worthington moved the adoption of the following **HR 21**:

HR 21, A RESOLUTION adjourning the House in memory and honor of Herbert F. "Herdie" Fern.

With deepest respect we pay tribute to the memory of Herbert F. "Herdie" Fern.

WHEREAS, Herbert F. "Herdie" Fern of Ewing, Kentucky, traversed these earthly bounds on Wednesday, October 18, 1989; and

WHEREAS, Herbert F. "Herdie" Fern was born on July 22, 1911; and

WHEREAS, Herbert F. "Herdie" Fern spent a lifetime active in political processes; and

WHEREAS, Herbert F. "Herdie" Fern served four terms as State Representative in 1952, 1954, 1960 and 1962; and

WHEREAS, Herbert F. "Herdie" Fern was a faithful and loyal Democrat; and

WHEREAS, Herbert F. "Herdie" Fern demonstrated high moral values and was ever faithful in the Christian religion; and

WHEREAS, Herbert F. "Herdie" Fern was the devoted husband of Mamie Fern and the loving father of Freddie, Ronnie and Tommie Fern; and

WHEREAS, all who knew and admired Herbert F. "Herdie" Fern grieve over their loss, and join his family and friends who mourn his passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the passing away of Herbert F. "Herdie" Fern and does extend to his family its most heartfelt sympathy.

Section 2. That when the House adjourns this day, Thursday, January 4, 1990, it does so in honor and memory of Herbert F. "Herdie" Fern.

Section 3. That the Clerk of the House be directed to send copies of this resolution to Mrs. Mamie Fern, Route 1, Ewing, Kentucky, 41039, Mr. Ronnie Fern, Route 1, Ewing, Kentucky 41039, Mr. Tommie Fern, Route 2, Flemingsburg, Kentucky, 41041, and Mr. Freddie Fern, 378 Harrodswood, Frankfort, Kentucky 40601.

HR 21 was adopted by voice vote.

Announcements

The Clerk announced the filing of the following Floor Amendment to **HB 74**:

Floor Amendment No. 1 to **HB 74**, by Representative Mullinix:

Amend printed copy of **HB 74** on page 1, line 4, after ***interest*** by inserting "***, but in no case more than***"

And on page 1, line 4, by deleting the brackets before "six" and after "annually," and by deleting all strike-throughs.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, January 5, 1990.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 4—Deskins, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, JANUARY 5, 1990

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen, Geveden, Gregory, Little, Overstreet, Priddy and R. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 4, 1990 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 235, by Representative T. Jones: AN ACT relating to complaints against police.

HB 236, by Representative T. Jones: AN ACT relating to libraries.

HB 237, by Representative T. Jones: AN ACT relating to the Commission on the Deaf and Hearing Impaired.

HB 238, by Representative T. Jones: AN ACT relating to libraries.

HB 239, by Representatives Ballard, Bruce, Ridley, Little, P. Richardson, Maggard, Morris, Hancock, Bronger, Gedling, A. Jones, McElroy, Lewis, Zimmerman, Arnold, R. Smith, P. Clark, Castleman, Siler, Johnson, Farrow, Crupper, Curd and Yates: AN ACT relating to hunting and fishing licenses.

HB 240, by Representative T. Jones: AN ACT relating to arts, and reorganization of arts agencies.

HB 241, by Representative Farrow: AN ACT relating to peace officers.

Senate Message

Announcing passage of **SB 38**, **SB 50** and **SB 70**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 221, HB 222, HB 233, HJR 25**

Banking and Insurance: **HB 192, HB 207, HB 210, HB. 212**

Counties and Special Districts: **HB 223, HB 224, HB 230**

Education: **HB 205, HB 220, HB 226**

Elections and Constitutional Amendments: **HB 198, HB 200, HB 202, HB 218**

Health and Welfare: **HB 225**

Judiciary: **HB 195, HB 199, HB 201, HB 208, HB 214, HB 216, HB 217, HB 219, HB 227, HB 228**

Labor and Industry: **HB 231**

Natural Resources and Environmental Protection: **HB 194**

State Government: **HB 193, HB 196, HB 197, HB 203, HB 211, HB 213, HB 215, HB 229, HB 232, HB 234, HCR 22, HCR 24**

Transportation: **HB 204, HB 206, HB 209**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 11**

Agriculture and Small Business: **HB 66**

State Government: **HB 159**; **HR 18**

Cities: **HB 187**

Calendar

HB 6, **HB 8**, **HB 9**, **HB 21** and **HB 3** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 92 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 92** be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See January 5, 1990, roll call on **HB 92** - Appendix.)

HB 92 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 92** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Recess

Representative Stumbo moved that the House recess for five minutes for the purpose of a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committee

The Committee on Rules reported **HB 6**, **HB 8** and **HB 9** have been posted for passage in Orders of the Day, January 8, 1990.

Representative Stumbo moved that the rules be suspended to introduce a Resolution. Agreed.

HR 26, by Representative T. Jones: A RESOLUTION adjourning the House of Representatives in honor of the birth of Elvis Aaron Presley.

Representative Ackerson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ackerson moved that he be recorded as voting "yea" on **HB 92**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 155**, by Representative Clarke:

Amend printed copy of **HB 155** on page 10, line 14, by deleting the "comma ," appearing after the word "***safety***" and by inserting after the word "***welfare***" the following: "***, or affects state or local revenues***".

Floor Amendment No. 1 to the Committee Substitute to **HB 9**, by Representative Callahan:

Amend printed copy of HCS to **HB 9** on page 1, line 20, by inserting after the word "***of***" the words: "***the fund from***"; and on page 1, line 21, by inserting after the word "***of***" the words: "***the fund from***"; and

on page 3, line 23, by inserting after the word "***of***" the words: "***the fund from***"; and

on page 3, line 24, by inserting after the word "***of***" the words: "***the fund from***"; and

on page 4, line 24, by inserting after the word "***of***" the words: "***the fund from***"; and

on page 4, line 25, by inserting after the word "***of***" the words: "***the fund from***"; and

on page 6, line 8, by inserting after the first word "***of***" the words" "***the fund from***"; and

on page 6, line 8, by inserting after the second word "***of***" the words: "***the fund from***".

The Budget Review Subcommittee on Economic Development and Tourism will meet at 3:00 p.m., Monday, January 8, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until the hour of 5:00 p.m., Monday, January 8th, 1990 to convene at the Old State Capitol.

On the roll call the vote was yeas 84—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Pritchett, Rapier, Reinhardt, Richards, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Zimmerman. Nays 2—Heleringer, Lile.

The motion to adjourn was adopted.

MONDAY, JANUARY 8, 1990

FIFTH LEGISLATIVE DAY

The House convened in the Old State Capitol to commemorate Kentucky's bicentennial in 1992.

The House was called to order by Speaker Blandford.

Prayer by the Reverend Jerome Gennaria, Victory Baptist Church, Danville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Representative Stumbo moved that ths be suspended for the purpose of granting floor privileges to Representative-elect Curtsinger's family. Agreed.

The Clerk read the certificate of election of the newly elected member, Representative Tony Curtsinger, from the Secretary of State.

Representative Stumbo moved that the Journal show that the member from the Seventy-sixth Legislative District having been elected by a special election has produced a certificate of election and that this certificate be confirmed. Agreed.

The oath of office was administered to Representative Curtsinger by Representative Strong.

In lieu of roll call, the Speaker asked the House members to notify the House Clerk of their presence prior to adjournment.

All members present except Representatives Overstreet and Priddy.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The Chair determined a quorum present and the House was duly constituted to do business.

Representative McElroy moved that the reading of the Journal of January 5, 1990 be dispensed with and the same approved. Agreed.

Representative Worthington moved that the rules be suspended for the purpose of granting floor privileges to the members of the Bicentennial Commission and other distinguished guests. Agreed.

Members of the Bicentennial Commission and Other Distinguished Guests.

SPEAKER PRO-TEM:

In just two years, in 1992, Kentucky will mark its Bicentennial — our 200th year as a state in this nation. We have gathered in this historical setting to set the tone for the coming Bicentennial Celebration and to make you aware of the work of the Bicentennial Commission. We are honored today to have the members of the Commission present with us. I would like to take this opportunity to introduce this esteemed group of Kentuckians to you. With us today are:

Mary Bingham, Louisville
George Street Boone, Elkton
Margie Bradford, Bardstown
Jim Brannon, Paris
Sue Carol Browning, Russellville
Marie Porter Carter, Louisville
Dr. Thomas Clark, Lexington
Mr. Steve Collins, Versailles
Mr. Chuck Dedham, Harrodsburg
Millie Dickinson, Somerset
Mary Louise Duke, Maysville
Judy Fannin, Ashland
Betty Jane Gorin, Campbellsville
James S. Green, III, Harlan
Mary Haas, Ft. Thomas
Ann Hale, Mayfield,
Frances Hamilton, Paducah
Carrie Kuegel, Owensboro
Henry Mann, Ft. Mitchell

Brack Marquette, Lexington
Nick Nicholson, Lexington
Dr. Tom Owen, Louisville
Allen Purnell, Jr., now living in Illinois
Peggy Rice, Richmond
Allan Steinberg, Louisville
Betsey Venters, Pikeville
Martha Wilkinson, Frankfort

I hope you will welcome this group and give them your support. Sen. Karem and I have both enjoyed serving with them on the KBC.

I would also like to introduce to you Dr. James W. Rodgers, Chair of the Theatre Department at the University of Kentucky, who has worked with us on the script that will be used today.

Also in the audience is Tom Vantreese who is the artist who has been working with us on the proposed options for the Bicentennial License plate which I will discuss later.

Speaker Pro Tempore Worthington assumed the Chair.

Representative Deskins moved that the rules be suspended for the purpose of a mock debate as part of the Bicentennial celebration. Agreed.

LEGISLATOR 2 (Mike):

Mr. Speaker, those of us who have been chosen by our fellow Kentuckians to represent them in this, the first-ever session of the legislature, have a grave responsibility. No, not just a responsibility, but rather, an obligation to provide for the future generations of Kentuckians yet unborn. I'm sure I speak for all of us here when I stress that our greatest concern is for our children. They are this state's life's blood, and they deserve a better life than we have had. Gentlemen, it is incumbent upon us to guarantee their safety and well being — safety against the possibility of Indian attacks and an environment free and conducive to raising the present standard of living.

LEGISLATOR 4 (Lonnie):

That's telling 'em, Mike, and to guarantee all those things we've got to education 'em, every gosh dern one of 'em.

SPEAKER PRO TEM:

Order, Order. I'm afraid you're out of order, Mr. Napier. The chair recognizes Mr. Morris.

LEGISLATOR 3 (Ramsey):

Mr. Speaker, I object. What's being proposed here is the worst possible type of government infringement on the rights of the individual . . . in this instance, the parents across this glorious state of ours . . . . to educate their own children in the manner and fashion they deem best suited to that end. After all, what do the boys of this state need to know other than how to hunt and fish and plow? These skills are all that a decent and God-fearing man needs to know to survive in this great and rich sovereign state of ours.

LEGISLATOR 5 (Hank):

And our women, Mr . . .
LEGISLATOR 3 (Ray):

Our women? What about them? They'll spend their time sewing, cooking, and having babies, of course - the way they always have.

LEGISLATOR 5 (Hank):

Mr. Speaker, if I may? (The Speaker Pro Tem nods) The needs of any society change with time. History bears me out on that fact. The skills and even the values of one-generation can drastically change with the next. Hunting and fishing, which we all consider essential tasks to our very survival and prosperity, may be merely hobbies to most in generations to come. That should give us pause and serious comtemplation.

LEGISLATOR 3 (Ramsey):

HORSE MANURE!

LEGISLATOR 5 (HANK):

What was that, Mr. . . .
LEGISLATOR 3 (Ray):

I said, "Horse manure," Mr. Hancock. Just another essential task that I'm sure will become a "mere hobby" in generations to come.

SPEAKER PRO TEM:

Order, Order! (Look at Hank) The chair recognizes Rep. Ward.

LEGISLATOR 2 (Mike):

It is true, we have no way of knowing what the future may bring; however, one thing is certain . . . the future will bring change. And to prepare for change, we must provide a sound educational system. Our children's futures are in our hands. Several private academies have already opened their doors for the purpose of educating our young people, one right here in Frankfort. When are we, as a state, going to wake up to that responsibility???

LEGISLATOR 4 (Lonnie):

That's right. I can't afford to send my children to one of those fancy academies, not all nine of 'em. But they're a right smart lot, each one of 'em and each in a different way, if you follow my meaning, and I want 'em all, the girls too, to have what I never formally had but always hankered for, the how-to to read and write easy and fast like and to understand the magic of numbers and how to use 'em beyond countin' the digits I've got on the ends of my hands.

LEGISLATOR 3 (Ramsey):

But it costs money, Mr. Napier. You know as well as I, those dern academies keep hounding all of us to provide each of them with some kind of financial support. Can you imagine what it would be like if we got into the real business of trying to educate every man's son and daughter, God forbid! We'd never hear the end of it. They'd drain us dry.

LEGISLATOR 5 (Hank):

And I say every penny spent would be worth it. Knowledge is the most precious gift we can give our children. Provide it, and we insure a prosperous future for the state; deny it, and we file for bankruptcy.

LEGISLATOR 2 (Mike):

I agree. And to insure against that bankruptcy, we must provide the very best in higher education as well. We don't want our brightest young men to be lured away to other states. They're needed here.

LEGISLATOR 3 (Ramsey):

We've heard a great deal of talk already about the possibility of opening a college in Lexington. Transylvania, I believe, they intend on calling it.

LEGISLATOR 4 (Mike):

Yes, but we shouldn't expect the private sector to provide the only institutions for higher education. They're too expensive, and besides, there are so many advancements we could make as a state if we only had the knowledge.

LEGISLATOR 1 (Herbie);

The Gentleman's right, Mr. Chairman, therefore I suggest we introduce a tax on all real property in the Commonwealth, and not just the land, but the houses and cabins as well.

LEGISLATOR 4 (Lonnie) AMEN!!!

LEGISLATOR 3 (Ray):

I knew it. Next thing you know, he'll want to tax all our cattle.

LEGISLATOR 1 (Herbie):

Why not? That's a great idea, Mr. Deskins. The tax should extend to all cows, horses, pigs, and other livestock.

LEGISLATOR 3 (Ramsey):

I disagree. The state has no business usurping power in areas where it has no right to. I propose that we leave the business of educating children to those who know children best, their parents.

LEGISLATOR 2 (Mike):

It's unfortunate that our state was settled much too early to be included under the provisions of the Northwest Ordinance of 1787. As you may know, that legislation provides that every sixteenth parcel of land in each township be set aside for the support of public education. That would keep us from having to encroach on parental rights, while still providing a measure of support for the education of our children.

LEGISLATOR 3 (Ramsey):

I still say that all this talk about education is, if nothing else, premature, Mr. Speaker.

LEGISLATOR 4 (Lonnie):

Well, perhaps Mr. Morris has a point. Perhaps first we should look at the more important issue of our roads. I'm here to tell you that they're in a sorry sight! Take the Wilderness Road. It's our oldest and most important road. It cuts right down and through the state and nearly every one doing some serious travel uses it. Well, I'm here to tell you, it's in a sorry state of repair, gentlemen. We can't hope to help the educational cause in this state until we are less dependent on our rivers for transportation and trade. We must have better roads, there's no getting around it; roads that are safe and free from those cursed Indian attacks.

LEGISLATOR 5 (Hank):

I agree with the fine Gentlemen from Garrard, Mr. Chairman. Overland transportation is becoming more and more a major concern for our citizens. Though we may find it difficult to believe, I am convinced that in the future, more goods will be moved over land than are currently moved on our rivers. And to meet that need, I suggest that we consider building turnpikes across the state from both east to west and from north to south.

LEGISLATOR 3 (Ramsey):

Poppycock! I've never heard such fantasizing. The very idea that overland transportation can replace the natural commerce and transportation system we have here in the Ohio River Basin is ridiculous!

LEGISLATOR 5 (Hank):

My learned colleague from Christian should be somewhat more open minded. What about the transportation of farm goods to markets right here in our state? A good road from Lexington to Louisville, say, would literally cut hours off a trip that now must be made on the Kentucky and Ohio Rivers. I say that overland roads are paramount to the growth of our state and the well being of our citizens.

LEGISLATOR 1 (Herbie):

Mr. Speaker, I stand second to no one in my belief that this state needs improved roads, however have we not gotten away from our original discussion about providing financial support for the education of our young? Are they not our most valuable resource, and isn't their well being what's really paramount to us? Now, I have an alternative method of providing funds for education. Why not sell some of the vast amounts of publicly-owned land that currently exist in the state?

LEGISLATOR 2 (Mike):

Personally, I think that Lotteries are the most viable means for raising monies for education and we, as members of the General Assembly have the power to authorize such games.

LEGISLATOR 3 (Ramsey):

Lotteries?!?!?

LEGISLATOR 2 (Mike):

Why not? Look what the Dutch Presbyterian Society in Louisville was able to accomplish. They recently raised enough funds to build a new sanctuary and the majority of it was from lottery proceeds.

LEGISLATOR 4 (Lonnie):

That's right, lotteries are a right fine source of recurring revenue, unlike the land which, once sold, is gone forever.

LEGISLATOR 3 (Ray):

No, No!! The revenue that is produced from lotteries is too subject to the whims of chance. We need to take a long-term view toward solving the problems of this state, rather than make hasty decisions based upon the immediate crisis at hand, Mr. Speaker.

LEGISLATOR 1 (Herbie):

Well, for once I agree with the Mr. Morris. That is why I proposed that we enact legislation that will provide funding on a more permanent basis. To do this we should base a tax upon personal property including houses, farms, livestock, and any other property that is owned.

LEGISLATOR 5 (Hank):

But Mr. Chairman, improvements in our transportation system must come first. They are of vital concern to all of us, not just our children. If we can build roads overland, we can cut drastic amounts of time off our trips from, say Frankfort to Lexington, or Lexington to Louisville or even Harrodsburg to Cincinnati. Imagine it! I know that may seem like a dream but just think of the time saved compared to the length of time now required to make those trips by riverboat.

LEGISLATOR 2 (Mike):

I must agree that improved roads are becoming more and more an important issue. Have you not read the plea from the recently opened Kentucky Manufacturing Society in Danville? They produce cotton cloth and stockings which are in great demand. They're begging us to improve and build new roads to meet their market demands not only in this state but across the country.

LEGISLATOR 5 (Hank):

Further, Gentlemen, every citizen has the right to ready access to our seat of government here in Frankfort. To this end we need to improve our roads and build turnpikes across the state so that all Kentuckians will have the opportunity to visit here and see this beautiful city that General Wilkinson founded as Frank's Ford.

LEGISLATOR 2 (Mike):

Why the argument, Gentlemen? Shouldn't we be doing both .improving our roads and supporting public education?

LEGISLATOR 5 (Hank):

And there's another area that is likely to require vast amounts of money . . . our penal system. The day is rapidly approaching when our local city and county jails will be unable to hold all the convicts that are put into our current system. I submit to you that if we as the Legislature are going to pass criminal laws, we have a responsibility to provide for the incarceration of those people who are convicted under the statutes we have passed.

LEGISLATOR 1 (Herbie):

Gentlemen! Gentlemen! All these issues are equally important, and I am sure there are other worthy issues that need our equal time and support, however, Gentlemen, let us be realistic! It is impossible to fund every needed project in this state on the income from turnpikes and by authorizing lotteries. We have got to buckle down and make some tough decisions if we are going to support education as well as improve our roads, and improve our penal system, and meet the demands of our militia, and support our court system, and meet all the other needs of the people of this state.

LEGISLATOR 3 (Ray):

HEAR! HEAR!

LEGISLATOR 4 (Lonnie):

That's right. Where are we going to find the money? Don't forget, we had to borrow funds from Robert Breckinridge to begin our operations here. If it wasn't for Breckinridge, we wouldn't have a state government.

LEGISLATOR 3 (Ray):

We'll never be able to pay for all of these things? Kentucky is not a wealthy state like New York or Pennsylvania. We cannot be expected to provide everyone with everything like our richer eastern counterparts.

LEGISLATOR 2 (Mike):

We must decide our priorities and use our limited resources to meet our most important needs.

LEGISLATOR 1 (Herbie):

We have identified the priorities. That's not the issue. The issue is our reluctance to pass legislation that would increase the financial burden on our constituents. Why? For fear of antagonizing them and causing our defeat at the next election? Is this to be the legacy of this state, or will we make the tough decisions that need to be made for the betterment of our children? I for one hope that we make decisions that will insure our growth and well being of our children regardless of the political consequences that we have to face and endure.

Announcements

The clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 2 to **HB 155**, by Representative Cline:

Amend printed copy of **HB 155** on page 9, line 14, following the word "***district***" by deleting the word "***shall***" and by inserting in lieu thereof the word "***may***";

On page 9, line 20, following the word "***amended,***" by deleting the word "***shall***" , and by inserting in lieu thereof the work "***may***";

On page 10, line 18, following the word "***district***" by deleting the word "***shall***" and by inserting in lieu thereof the word "***may***";

On page 10, line 22, following the word "***assistance***" by deleting the word "***shall***" and by inserting in lieu thereof the word "***may***"; and

On page 12, line 5, following the word "***authority***" by deleting the word "***shall***" and by inserting in lieu thereof the word "***may***".

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the House adjourn until the hour of 2:00 p.m., Tuesday, January 9, 1990. Agreed.

The motion to adjourn was adopted by voice vote.

TUESDAY, JANUARY 9, 1990

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Brother Joe Adams.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Overstreet.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 8, 1990 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 242, by Representatives Worthington, Morris, Ward, Napier, Lyne, McElroy, Blevins, White, Bently, Mason, P. Richardson, Ark, Gregory, B. Richardson, LeMaster, Nelson, Scorsone, Mack, Ford, Todd, Siler, Butler, Arnold, Cyrus, Callahan, Hancock, Riner, K. Harper, Burch, Nett, Gray, Hatcher, Lewis, Deskins, Jackson, Adkins, Preston, Ballard, Curd, Castleman, Allen, Gedling, Cline and Layman: AN ACT relating to the Kentucky Bicentennial.

HB 243, by Representative Donnermeyer: AN ACT relating to housing the homeless and making an appropriation related thereto.

HB 244, by Representative Farrow: AN ACT relating to Vietnam veterans bonus.

HB 245, by Representative L. Clark: AN ACT relating to fugitives from justice.

HB 246, by Representative L. Clark: AN ACT relating to controlled substances.

HB 247, by Representative L. Clark: AN ACT relating to crimes and punishments.

HB 248, by Representatives Freibert and K. Harper: AN ACT relating to plea bargaining.

HB 249, by Representatives Freibert and K. Harper: AN ACT relating to release of persons from the penitentiary.

HB 250, by Representative Ackerson: AN ACT relating to revenue and taxation.

HB 251, by Representative Sheehan: AN ACT relating to crimes and punishments.

HB 252, by Representative Donnermeyer: AN ACT relating to motor vehicle taxation.

HR 27, by Representative Bentley: A RESOLUTION commending and recognizing the Cordia High School Girl's Cross Country Track and Field Team.

HR 28, by Representative Bentley: A RESOLUTION honoring Cordia High School Boy's Cross Country Track and Field Team.

HCR 29, by Representatives Freibert, Priddy, Northup, White, Lyne and Stokes: A CONCURRENT RESOLUTION requiring a study of no-fault divorce and its impact upon spouses and children.

HR 30, by Representative Farrow: A RESOLUTION commending the Lexington ***Herald-Leader*** for its series of articles "Cheating our Children."

HCR 31, by Representatives Gedling, Farrow, Brown, Ark, P. Clark, O'Brien, Lyne, Donnermeyer, White, Blevins, Bentley, Nelson, Ballard, Bronger, Morris, Gregory, Siler, Turner, Reinhardt, Napier, Todd, L. Clark, Burch, Arnold, Bruce, Curd, B. Richardson, Butler and Crupper: A CONCURRENT RESOLUTION calling for the creation of a special horticultural study subcommittee of the Interim Joint Committee on Agriculture and Natural Resources to study the horticultural industry in Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Cities: **HB 235**

Counties and Special Districts: **HB 236, HB 238, HB 241**

Education: **HB 237, SB 50**

Judiciary: **SB 70**

Natural Resources and Environmental Protection: **HB 239**

State Government: **HB 240, SB 38**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Education: **HB 42, HB 106**

Report of Committees

The Committee on Committees has appointed Representative Curtsinger to the Committee on Agriculture and Small Business and the Committee on Cities.

The Committee on Agriculture and Small Business reported **HB 66** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 66, AN ACT relating to milk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.775 is amended to read as follows:

As used in KRS 260.775 to 260.845, unless the context requires otherwise:

(1) "Buyer" shall include any person, partnership, corporation, association, organization, company, firm, bargaining agent, receiving station, milk plant or agent thereof who receives milk or cream from producers and pays the producers for it on basis of volume, or weight, and test, except that it does not include persons who buy milk or cream for their own consumption;

(2) "Buy," "buying," or "bought" shall mean the receiving of milk or cream from producers or their agents and paying for it on basis of volume, or weight and test;

(3) "Milk tester" shall include any person who tests milk or cream, bought by buyers from producers, to determine the constituents or quality of such milk or cream and uses, or submits for use, these tests in determining the price paid for it;

(4) "Sampler-weigher" shall include any person who samples, weighs, or measures milk or cream received by buyers from producers and uses or submits for use, these tests or weights in determining the price paid for it;

(5) "License to buy" means the license issued to buyers of milk or cream purchased from producers or their agents on basis of its volume, or weight and tests;

(6) "License to test" means the license issued to milk testers;

(7) "License to sample and weigh" means the license issued to a milk sampler-weigher;

(8) "Board" means the creamery license board;

(9) "Director" means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky***, or his designee***;

(10) "Producer" means any person, partnership, corporation, association, organization, or concern keeping milk cows for the production of milk or cream for sale to a milk buyer;

(11) "Buying location" means each separate business place where nonpackaged milk or cream is received by buyers such as milk receiving stations, and milk plants; transfer stations are not considered buying locations;

(12) "Nonpackaged milk" means milk as it is usually received from the farm before it is processed and put in bottles, cartons or other containers for consumer use;

(13) "Standard testware" means all testing equipment inspected and approved by the director for use in Kentucky and meeting all specifications of the National Bureau of Standards;

(14) "Transfer station" means any place, premise, or establishment where farm bulk milk is transferred directly from one transport tank to another and producers' bulk tank milk samples are collected, handled, stored, and transported to a laboratory for analysis;

(15) "Milk equivalent" means the amount of whole milk required to make other dairy products; thus, to convert milkfat to milk equivalent, multiply the pounds of milkfat by twenty-five (25), for four percent (4%) milk;

(16) "Milk receiving station" means any place, premise, or establishment where producers' raw farm milk is collected, handled, and stored by a milk buyer;

(17) "Milk plant" means any place, premise, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk buyer;

(18) "Transfer station license" means the license issued to operate a transfer station;

(19) "Person" shall mean any individual, milk plant operator, partnership, corporation, company, firm, trustee, or association.

Section 2. KRS 260.815 is amended to read as follows:

The license fees to be paid for respective licenses provided for in KRS 260.795, 260.800 and 260.805 shall be per year or any portion of a year with the license year commencing July 1 and ending June 30. No license may be transferred or assigned. The license fees ***shall be*** [~~are~~] as follows:

(1) Buyers, milk plants and receiving stations: For each milk plant, milk receiving station, person, agent, firm, company, association or corporation an amount determined according to the following schedule:

(a) ***One hundred twenty-five dollars ($125)*** [~~One hundred dollars ($100)~~] per license for those buying less than one million (1,000,000) pounds of milk or milk equivalent during the past year;

(b) ***Three hundred fifty dollars ($350)*** [~~Three hundred dollars ($300)~~] per license for those buying more than one million (1,000,000) pounds of milk or milk equivalent during the past year.

(2) Testers: License to test - ***seven dollars ($7.00)*** [~~six dollars ($6.00)~~] for temporary license and ***seven dollars ($7.00)*** [~~six dollars ($6.00)~~] for yearly license. Temporary fee to be deducted from annual fee if in the same fiscal year.

(3) Sampler-weigher: ***Seven dollars ($7.00)*** [~~Six dollars ($6.00)~~] for temporary license and ***seven dollars ($7.00)*** [~~six dollars ($6.00)~~] for yearly license. Temporary fee to be deducted from annual fee if in the same fiscal year.

(4) Transfer stations: License to operate a transfer station for transferring producers' raw farm milk from one transport tank to another - twenty-five dollars ($25.00) per year.

Section 3. KRS 260.820 is amended to read as follows:

(1) In order to secure sufficient funds to execute the provisions of KRS 260.775 to 260.845, and to insure accuracy in the weighing, sampling, testing, correctly calculating payments, and keeping of records and samples of milk and cream purchased or received from producers or their agents every milk plant, receiving station and transfer station, or person or agent, firm, company, association or corporation in Kentucky which purchases or receives milk or cream from producers or their agents during the month of May, ***1991*** [~~1981~~], and during the month of May of each and every year thereafter, shall pay to the director of the University of Kentucky Agricultural Experiment Station, for ***the*** [~~such~~] fluid milk, or milk equivalent [~~so~~] delivered during the month of May, ***1991*** [~~1981~~], and the month of May of each and every year thereafter, a sum equal in amount to ***three cents (3)*** [~~two cents (2)~~] per hundredweight for all milk or milk equivalent [~~so~~] purchased during such time. For the financing of the producers' share of this program the buyer, or his agent, shall charge ***three cents (3)*** [~~two cents (2)~~] per hundredweight back to the producer association or cooperative and for those patrons who do not belong to producer associations or cooperatives, the buyer, association, or their agents shall make this charge directly to the individual producer. Milkfat purchased by such parties from such producers other than in the form of fluid milk shall be converted for the purpose of such deduction, into milk equivalent by multiplying the pounds of milkfat by twenty-five (25).

(2) Payments for the month of May, ***1991*** [~~1981~~], and for the months of May of each and every year thereafter, shall be made to the director of the University of Kentucky Agricultural Experiment Station,

not later than the fifteenth (15th) day of June, ***1991*** [~~1981~~], and the fifteenth (15th) day of June of each and every year thereafter.

(3) The meaning and intent of this section is that all milk and cream regularly sold by producers, regardless of their residence, to licensed buyers in Kentucky shall be accounted for and the ***three cents (3)*** [~~two cents (2)~~] per hundredweight paid to the director of the Agricultural Experiment Station. Unless a satisfactory substitute arrangement is made, the deduction, assembly, accounting and payment shall be made by the concern that pays the producers. There is no intention to prevent transfer of relatively large quantities of milk from one (1) buyer to another provided the records show how payments including the ***three cents (3)*** [~~two cents (2)~~] per hundredweight referred to herein are handled and paid. In this connection, all persons, firms, corporations, associations, or the agents for same, responsible under the terms and meaning of KRS 260.775 to 260.845[~~,~~] to collect, assemble, and make payments to the director of the university of Kentucky Agricultural Experiment Station, [~~are~~] also ***shall be*** required to submit certified reports with moneys paid, on forms prescribed by the director, covering the milk and milkfat in cream converted to milk equivalent.

The Committee on Energy reported **HB 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20, AN ACT relating to telecommunication services for hearing-impaired or speech-impaired persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Telecommunications device for the deaf" or "TDD" means a keyboard mechanism attached to a standard telephone set which allows for messages to be typed rather than spoken.

(2) "Dual party relay service" means a procedure by which a hearing-impaired or speech-impaired TDD user can communicate with an intermediary party, who then verbally relays the first party's message or request to a third party, or vice versa. The service includes the switching, transmitting, and the voice and typed translation of calls but does not include the furnishing of TDDs or other telecommunication devices to users of the system.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The commission shall establish a program to make dual party relay services available not later than October 1, 1991. The dual party relay service shall be operated seven (7) days a week for twenty-four (24) hours per day for all hearing-impaired or speech-impaired telephone subscribers within the Commonwealth. In order to determine the most cost effective method of providing dual party relay services that will meet the requirements of the hearing-impaired and speech-impaired, the commission shall initiate an investigation, conduct public hearings, and solicit the advice and counsel of hearing-impaired persons and speech-impaired persons and the organizations serving them.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Users of a dual party relay service shall pay rates no greater than the rates paid for functionally equivalent voice communication services provided without a dual party relay. The commission shall determine the appropriate funding mechanism for the dual party relay system. The telecommunications industry shall not be required to absorb the cost of funding the dual party relay service. The commission may use assistance from public agencies of the state or federal government or from private organizations to accomplish the purposes of this Act.

Section 4. The Public Service Commission shall prepare and submit a report on the establishment and implementation of a dual party relay service program to the Legislative Research Commission on or before July 1, 1991. The Legislative Research Commission shall then submit the report to the appropriate interim committee for review.

The Committee on Health and Welfare reported **HB 64** and **HB 120** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 64, AN ACT relating to vital statistics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Dead body" means a human body or such parts of such human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;

(4) "File" means the presentation of a vital record provided for in this Act for registration by the Office of Vital Statistics;

(5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;

(6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management of prolonged retention of product of conception following fetal death;

(7) "Institution" means any establishment, public or private, which provides in-patient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domicilary care, or to which persons are committed by law;

(8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after such expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(9) "Provisional death certificate" means an interim certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;

(10) "Registration" means the acceptance by the Office of Vital Statistics and the incorporation of vital records provided for in this Act into its official records;

(11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records and the collection of other reports required by this Act;

(12) "Secretary" means the secretary for human resources;

(13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy;

(14) "Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or annulment, and data related thereto;

(15) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage; and related reports;

(16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution of marriage, or annulment as required by this Act;

(17) "Commission" means the Commission for Handicapped Children;

(18) "Hearing-impaired infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

SECTION 2. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

There shall be established in the Department for Health Services, Cabinet for Human Resources, a vital statistics program which shall maintain and operate the only official system of vital statistics in the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall adopt administrative regulations pursuant to KRS Chapter 13A for the purpose of carrying out the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

The secretary for human resources shall designate the state registrar of vital statistics, hereinafter referred to as "state registrar," in accordance with merit system laws and administrative regulations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

The state registrar, under the supervision of the commissioner of health, shall:

(1) Administer and enforce the provisions of this Act and the administrative regulations issued hereunder; issue instructions for the efficient administration of the system of vital statistics; direct the system and Office of Vital Statistics and be custodian of its records; supervise the activities of all persons when they are engaged in the operation of the system; and conduct training programs to promote uniformity of the system's policy and procedures throughout the Commonwealth;

(2) With the approval of the cabinet, design, furnish, and distribute forms required by this Act and the administrative regulations issued hereunder, or prescribe other means for transmission of data to accomplish the purpose of complete and accurate reporting and registration;

(3) Assist in preparing and publishing reports of vital statistics of the Commonwealth and other reports as required;

(4) Provide to local health departments copies of or data derived from certificates and reports required under this Act. The state registrar shall establish a schedule with each local health department for transmittal of the copies or data. The copies shall remain the property of the Office of Vital Statistics, and the uses which may be made of them and the period of their retention in the county shall be governed by the state registrar;

(5) Prepare and maintain a complete continuous index of all vital records registered under this Act and provide, at not more than two (2) year intervals, a copy of the index to each local registrar; and

(6) Investigate cases of irregularity or violation of this Act and when the cabinet deems it necessary, report violations to the Commonwealth's attorney of the proper county for prosecution.

SECTION 6. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Each county in the Commonwealth shall constitute a registration district for the purposes of carrying out the provisions of this chapter.

(2) The secretary shall upon the recommendation of the state registrar, designate a local registrar in each registration district to aid in the efficient administration of the system of vital statistics. The local registrar shall be an employee of the local health department. The designation may be revoked by the secretary.

(3) The local registrar may designate one (1) or more employees of the local health department as deputy registrar. The local registrar may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the cabinet, the appointments are necessary. All appointments shall be subject to the approval of the state registrar.

(4) The local registrar shall supply blank forms of certificates to persons who require them. The local registrar shall carefully examine each certificate of birth or fetal death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for Human Resources. The local registrar shall transmit original certificates to the Office of Vital Statistics as directed by the state registrar. When a birth or fetal death certificate filed with a local registrar indicates the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

SECTION 7. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports required by this Act, or by administrative regulations adopted hereunder, shall include, as a minimum, the items recommended by the federal agency responsible for national vital statistics.

(2) Each certificate, report, and other documents required by this Act shall be on a form or in a format prescribed by the cabinet with due consideration for national uniformity. All certificates shall be typewritten with the exception of required signatures which shall be written legibly in unfading black ink.

(3) No certificate shall be held to be complete and correct that does not supply all items of information called for therein or satisfactorily account for their omission, except as provided in KRS 199.570(3). If a certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(4) All vital records shall contain the data required for registration.

(5) No person shall charge or collect from any member of a family in which a birth or death occurs, any fee for completing and filing a report, or any other act or duty imposed upon them by this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. A hearing risk certificate provided by the Commission for Handicapped Children, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for herein, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth or the hearing risk certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(4) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(5) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where it is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(6) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to

such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a non-husband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(7) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgement of paternity by the father and with consent of the mother, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(8) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(9) Any child whose surname was restricted prior to the effective date of this Act shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(10) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(11) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within (10) days prescribed in subsection (1) of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) The person who assumes the custody of a live-born infant of unknown parentage shall report on a form and in a manner prescribed by the state registrar within ten (10) days to the Cabinet for Human Resources the following information:

(a) The date and place of finding;

(b) Sex, color or race, and approximate birth date of child;

(c) Name and address of the person or institution with which the child has been placed for care;

(d) Name given to the child by the custodian of the child; and

(e) Other data as required by the state registrar to complete a birth certificate.

(2) The place where the child was found shall be entered as the place of birth.

(3) A report registered under this section shall constitute the certificate of birth for the child.

(4) If the child is identified and a certificate of birth is found or obtained, the report registered under this section shall be placed in a special file and shall not be subject to inspection except upon order of a Circuit Court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) If a certificate of birth of a living person born in the Commonwealth has not been filed within

the time period as provided in Section 8 of this Act, a certificate of birth may be filed in accordance with the administrative regulations of the cabinet. The certificate shall be registered subject to such evidentiary requirements as the cabinet shall by regulation prescribe to substantiate the alleged facts of birth.

(2) In accordance with the provisions of this section and the administrative regulations established thereunder, the state registrar may issue a record of foreign birth for a person born outside the United States registration area who is subsequently adopted by a Kentucky resident and whose record of birth cannot be obtained from the country of birth. Such certificates shall be plainly endorsed, "not evidence of United States citizenship."

(3) Certificates of birth registered one (1) year or more after the date of birth shall be made on forms prescribed and furnished by the state registrar marked "delayed" and shall show on the face of the certificate the date of the delayed registration.

(4) A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

(5) The cabinet may refuse to accept any application for a delayed birth certificate or record of foreign birth on which the applicant fails to provide such information as the cabinet may required.

SECTION 11. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Upon notification by the Justice Cabinet that a child born in the Commonwealth is missing, the state registrar of vital statistics shall flag the birth certificate record of the child in such a manner that whenever a copy of the birth certificate or information regarding the birth record is requested, the state registrar shall be alerted to the fact that the certificate is that of a missing child.

(2) Upon notification by the Justice Cabinet that a missing child has been recovered, the state registrar shall remove the flag from the child's birth certificate record.

(3) In response to any inquiry for a copy of a flagged birth certificate of a missing child, the state registrar shall not provide a copy of the birth certificate except as approved by the Justice Cabinet.

(4) When a copy of a flagged birth certificate is requested in person, the state registrar or the designee accepting the request shall inform the person making the request that a copy of a certificate will be mailed to the requester. The state registrar shall, upon the departure of the requesting person, immediately notify the Justice Cabinet as to the request and the information obtained pursuant to this subsection.

(5) When a copy of a flagged birth certificate is requested in writing, the state registrar shall immediately notify the Justice Cabinet as to the request and shall provide a copy of the written request.

SECTION 12. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) For each adoption decreed by a Circuit Court in the Commonwealth, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the state registrar. The report shall include the facts necessary to establish a new certificate of birth of the person adopted, identify the order of adoption, and be certified by the clerk of the court.

(2) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The Department for Social Services or any other agency or person having knowledge of the facts shall supply the court with the additional information necessary to complete the report. The provision of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

(3) If an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof which shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree necessary to properly amend the birth record.

(4) Not later than the fifteenth (15th) day of each calendar month or more frequently, the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulments of adoption, and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.

(5) If the state registrar receives a report of adoption, annulment of adoption, or amendment of a decree of adoption for a person born outside this state, the state registrar shall forward the report to the state registrar in the state of birth. If the birth occurred in a foreign country and the child was not a citizen of the United States at the time of birth, the state registrar shall prepare a record of foreign birth as provided by Section 10(2) of this Act. If the child was born in Canada, the state registrar shall also send a copy

of the report of adoption, annulment of adoption, or amendment of a decree of adoption to the appropriate registration authority in that country.

SECTION 13. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) The state registrar shall establish a new certificate of birth for a person born in the Commonwealth when the state registrar receives the following:

(a) A report of adoption as provided in Section 12 of this Act or a report of adoption prepared and filed in accordance with the laws of another state or foreign country or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; or

(b) A request that a new certificate be established as prescribed by administrative regulation and the evidence as required by administrative regulation proving that the person has been legitimated, or that a court of competent jurisdiction has determined the paternity of the person, or that both parents have acknowledged the paternity of the person in which case the surname of the child shall be changed in accordance with Section 8 of this Act.

(2) If paternity is determined in a court action, the clerk shall report the findings of the court to the state registrar on forms prescribed and furnished for that purpose. The reports shall be made no later than the fifteenth (15th) of the month following the date of the order.

(3) If a new certificate is established, the actual place and date of birth shall be shown except in the case of adoption. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the natural parent or parents of the child. The new birth certificate, when issued, shall not contain the place of birth, hospital, or name of the doctor or midwife. This information shall be given only by an order of the court in which the child was adopted. If the child was born in the Commonwealth, the new birth certificate shall show the residence of the adoptive parents as the birthplace of the child, and this shall be deemed for all legal purposes to be the birthplace of the child.

(4) The new certificate shall be substituted for the original certificate of birth in the files, and the original certificate of birth and the evidence of adoption, paternity determination, or paternity acknowledgement shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by regulation.

(5) If any judgment under this section is reversed, amended, modified, or vacated in any particular, the clerk of the court shall notify the state registrar of the reversal or modification, and the state registrar shall make the changes if any, in the records as may be necessary by the reversal or modification.

(6) If a new certificate of birth is established by the state registrar, all copies of the original certificate of birth on file in the local health department shall be sealed and forwarded to the state registrar as the state registrar shall direct.

(7) If no birth certificate is on file for an adopted child born in Kentucky, the state registrar shall prepare a certificate of birth in accordance with information furnished by the clerk of the Circuit Clerk which issued the adoption order. The state registrar shall furnish the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section.

SECTION 14. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this Act.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed,

shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification of death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Human Resources to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Human Resources and the local health department. The Cabinet for Human Resources shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report of death form as prescribed by the Cabinet for Human Resources. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services

listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Health Services deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

SECTION 15. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) No person shall cremate or cause to be transported for the purpose of cremation the body of any person whose death occurs in the Commonwealth, without first obtaining from the coroner of the county in which the death occurred, a permit stating the cause of death and authorizing the cremation or transportation for cremation of the body. The permit shall be filed immediately following cremation with the local registrar of vital statistics.

(2) The provisions of this section shall not apply to the cremation of fetal death remains in the absence of any indication of a criminal act.

SECTION 16. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

If a death is presumed to have occurred within the Commonwealth but the body cannot be located or recovered, a death certificate may be prepared by the state registrar upon receipt of an order of a court of competent jurisdiction, which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "presumptive" and shall show on the certificate the date of registration and shall identify the court and the date of decree.

SECTION 17. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) If a death occurring in the Commonwealth has not been registered within one (1) year from the date of death, a certificate of death may be filed in accordance with regulation of the cabinet pursuant to KRS Chapter 13A. The certificate shall be registered subject to the evidentiary requirements the cabinet shall by regulation prescribe to substantiate the alleged facts of death.

(2) Any certificate of death registered one (1) year or more after the date of death shall be marked "delayed" and shall show on the face of the certificate the date of the delayed registration.

SECTION 18. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Each fetal death of twenty (20) completed weeks' gestation or more, calculated from the date last normal menstrual period began to the date of delivery or in which the fetus weighs three hundred fifty (350) grams or more, which occurs in the Commonwealth, shall be reported on a combination birth-death certificate in accordance with applicable provisions of Sections 8 and 14 of this Act. If the fetal death

occurs in a hospital, the person in charge of the institution or the person's designated representative shall complete the certificate, obtain the medical certification, and file the certificate with the local registrar.

(2) The name of the father shall be entered on the fetal death report in accordance with the provisions of Section 8 of this Act.

(3) All induced terminations of pregnancy shall be reported in the manner prescribed in Section 19 of this Act and shall not be reported as fetal deaths.

SECTION 19. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

Each induced termination of pregnancy which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Office of Vital Statistics by the person in charge of the institution within fifteen (15) days after the end of the month in which the termination occurred. If the induced termination of pregnancy was performed outside an institution, the attending physician shall prepare and file the report within fifteen (15) days after the end of the month in which the termination occurred. The report shall collect no information which will identify the physician, woman, or man involved.

SECTION 20. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

The reports required under Section 19 of this Act are statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics.

SECTION 21. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 311.300 to 311.350, any hospital or institution of higher learning may make application to any medical school incorporated within the Commonwealth for the loan of unclaimed whole dead bodies or parts thereof for educational or scientific purposes if the approval of the Cabinet for Human Resources has first been obtained. Approval shall be granted or denied by the Cabinet for Human Resources on the basis of proposed use, need, qualification of personnel, and adequacy of equipment and facilities.

(2) A special transit permit shall be obtained for the transportation of the dead bodies or parts thereof from the state registrar. Transportation and the ultimate burial of all the bodies or parts thereof shall be in accordance with the provisions of this chapter and KRS 311.340.

(3) All approved recipients shall keep a record of all bodies received by them and comply with all other regulations of the Cabinet for Human Resources.

SECTION 22. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall perform the collection, indexing, tabulation, and registration of data relating to marriages, divorces, and annulments. The secretary shall adopt administrative regulations to carry out the provisions of this section.

(2) Each county clerk shall on or before the tenth (10th) day of the each month furnish to the state registrar, from the marriage licenses issued and the marriage certificates returned to the clerk during the previous month, the information required by the Cabinet for Human Resources upon forms prescribed and furnished by the cabinet. The county clerk shall collect from the applicants for a marriage license at the time the license is issued one dollar ($1), which shall constitute the clerk's fee for forwarding the required information to the state registrar.

(3) A marriage record not filed within the time prescribed by this section may be registered in accordance with administrative regulations adopted by the cabinet.

(4) In all actions for dissolution of marriage, the petitioner, or the petitioner's attorney or legal representative, shall file, concurrently with the petition, the information requested on forms prescribed and furnished by the Cabinet for Human Resources. The provisions of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

(5) Each Circuit Court clerk shall, within forty-five (45) days after entry of a final judgment of divorce, absolute or limited, or annulment of marriage, complete the form prescribed and furnished by the Cabinet for Human Resources and forward it to the state registrar.

SECTION 23. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) A certificate or report registered under this Act may be amended only in accordance with this Act and administrative regulations adopted by the cabinet to protect the integrity and accuracy of vital records.

(2) A certificate or report that is amended under this section shall be marked "amended," except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The cabinet shall prescribe by administrative regulation the conditions under which additions or minor corrections may be made to certificates or records within one (1) year after the date of the event without the certificate or record being marked "amended."

(3) Upon written request of both parents and receipts of a sworn acknowledgment of paternity signed by both parents of a child born to an unmarried woman, the state registrar shall amend the certificate of birth to show the paternity, if paternity is not already shown on the certificate of birth. The certificate shall not be marked "amended."

(4) Upon receipt of a certified copy of an order of a court changing the name of a person born in the Commonwealth and upon request of the person or the person's parents, guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name.

(5) Upon receipt of a sworn statement by a licensed physician indicating that the gender of an individual born in the Commonwealth has been changed by surgical procedure and a certified copy of an order of a court of competent jurisdiction changing that individual's name, the certificate of birth of the individual shall be amended as prescribed by regulation to reflect the change.

SECTION 24. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

To preserve vital records, the cabinet may prepare typewritten, photographic, electronic, or other reproductions of certificates or reports of the vital statistics program. The reproductions, when certified by the state registrar, shall be accepted in the same manner as the original records.

SECTION 25. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by this Act, by regulation, or by order of a court of competent jurisdiction. Administrative regulations adopted by the cabinet shall provide for adequate standards of security and confidentiality of vital records and shall conform to subsection (4) of this section.

(2) The state registrar shall prepare annually an alphabetical list of all persons registered as born in the preceding year. The list shall show the person's name, the mother's maiden name, and the date and county of birth. This list shall be an open record subject to inspection by the public upon request.

(3) The state registrar shall prepare annually an alphabetical list of all persons registered who die in the Commonwealth. This list shall show the name of the deceased and the date and county of death and shall be an open record subject to inspection by the public upon request.

(4) The Cabinet for Human Resources may authorize by regulation the disclosure of information contained in vital records for research and official administrative purposes, if:

(a) All information identifying persons named on the certificate is withheld or removed;

(b) The information is requested by a federal, state, county, or municipal agency of government which needs the data or information in the conduct of official duties; or

(c) The cabinet has prepared, in writing, a statement of the conditions under which the data or records will be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to the conditions.

(5) If one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for continued safekeeping of the records.

SECTION 26. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) The state registrar shall upon receipt of an application issue a certified copy of a vital record in the registrar's custody or a part thereof to any applicant. Each copy issued shall show the date of registration and copies issued from records marked "delayed" or "amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the Commonwealth shall be provided or approved by the state registrar.

(2) A certified copy of a vital record or any part thereof, issued in accordance with subsection (1) of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein. The evidentiary value of a certificate or record which has been amended shall be determined by the judicial or administrative body, or official before which the certificate is offered as evidence.

(3) The federal agency responsible for national vital statistics may be furnished copies or data from the system of vital statistics for national statistics, if the federal agency shares in the cost of collecting, processing, and transmitting the data, and if the data is not used for other than statistical purposes by the federal agency unless so authorized by the cabinet.

(4) Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data from the system of vital statistics for statistical or administrative purposes upon terms or conditions as may be prescribed by regulation if the copies or data are not used for purposes other than those for which they were requested without prior permission of the cabinet. No information other than statistical data shall be provided for commercial purposes.

(5) The cabinet may, by agreement, transmit copies of records and other reports required by this Act to offices of vital statistics outside the Commonwealth when the records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. The agreement shall require that the copies be used for statistical and administrative purposes only and the agreement shall further provide for the retention and disposition of the copies. Copies received by the office of vital statistics from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

(6) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record except as authorized in this Act or regulation adopted hereunder.

SECTION 27. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes. One dollar ($1) of the birth certificate fee shall be used by the Cabinet for Human Resources for the sole purpose of contracting for the operation of private, not-for-profit, self-help groups for parents who want to prevent or cease physical, sexual, or mental abuse of their children.

(2) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(3) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps or Air Force of the United States.

(4) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and social security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

SECTION 28. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Every person in charge of an institution shall keep a record of personal data concerning each person admitted or confined to the institution. This record shall include the information required for certificates of birth and death and the reports of fetal death and induced termination of pregnancy required by this Act. The record shall be made at the time of admission from information provided by the person being admitted or confined but, if it cannot be so obtained, the information shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

(2) If a dead body or dead fetus is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the decedent, date of death, name and address of the person to whom the body or fetus is released, and the date of removal from the institution. If final disposition is made by the institution, the date, place, and manner of disposition shall also be recorded on the certificate of death or fetal death and filed in accordance with Sections 14 and 18 of this Act.

(3) A funeral director, embalmer, sexton, or other person who removes from the place of death, transports, or makes final disposition of a dead body or fetus shall, in addition to filing any certificate or other report required by this Act or regulation promulgated hereunder, keep a record which shall identify the body and

the information pertaining to the persons receipt, removal, delivery, burial, or cremation of the body as may be required by regulations adopted by the cabinet.

(4) Records maintained under this section shall be retained for a period of not less than five (5) years and shall be made available for inspection by the cabinet or its designee upon request.

SECTION 29. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

Any person having knowledge of the facts necessary to complete a vital record shall furnish the information that person possesses regarding any birth, death, fetal death, induced termination of pregnancy, marriage, or dissolution of marriage or annulment upon request of the cabinet.

SECTION 30. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall apply to all certificates of birth, death, marriage, divorce, fetal death and induced termination of pregnancy previously received by the Office of Vital Statistics and in the custody of the state registrar or any local registrar.

SECTION 31. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Any person who shall cremate or cause to be cremated or transport or cause to be transported for the purpose of cremation, the body of any person whose death occurs in the Commonwealth, without first obtaining from the coroner of the county in which death occurred, authorization for the transportation and cremation shall be guilty of a class D felony.

(2) Any person shall be guilty of a class A misdemeanor who:

(a) Willfully and knowingly makes any false statement in a certificate, record, or report required by this Act or in an application for an amendment thereof or in an application for a certified copy of a vital record or who willfully and knowingly supplies false information intending that such information be used in the preparation of any report, record or certificate or amendment thereof;

(b) Without lawful authority and with the intent to deceive, makes counterfeits, alters, amends or mutilates any certificate, record or report required by this Act or a certified copy of such certificate, record or report;

(c) Willfully and knowingly obtains, possesses, uses, sells, furnishes or attempts to obtain, possess, use, sell or furnish to another, for any purpose of deception, any certificate, record or report required by this Act or certified copy thereof so made, counterfeited, altered, amended, mutilated or which is false in whole or in part or which relates to the birth of another person whether living or deceased;

(d) As an employee of the Office of Vital Statistics or any office designated under Section 6 of this Act, willfully and knowingly furnishes or processes a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it may be used for the purpose of deception; or

(e) Without lawful authority possesses any certificate, record, or report required by this Act or a copy or certified copy of such certificate, record, or report knowing same to have been stolen or otherwise unlawfully obtained.

(3) Any person shall be guilty of a class B misdemeanor who:

(a) Willfully and knowingly refuses to provide information required by this Act or administrative regulations adopted hereunder;

(b) Willfully and knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in this Act;

(c) Willfully and knowingly neglects or violates any of the provisions of this Act or refuses to perform any of the duties imposed upon him or her by this Act; or

(d) As an employee of the Office of Vital Statistics or any office designated under Section 6 of this Act, willfully and knowingly violates the confidentiality provisions of Section 25 of this Act.

(4) Repeated failure to comply with the requirements of this Act shall be sufficient cause for the cabinet to file a report with the applicable medical, dental, chiropractic, or funeral director licensure board citing the omissions of lawful duty and requesting that appropriate disciplinary action be taken.

SECTION 32. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) In order to obtain information which may be useful to research organizations studying the causes and incidence of the sudden infant death syndrome, a program is hereby established in the Cabinet for Human Resources. The purpose of this program shall be to obtain factual information concerning the characteristics, incidence, and distribution of the sudden infant death syndrome throughout the Commonwealth and to provide a means of public education concerning any research findings which may lead to the possible means of prevention, early identification, and treatment of children susceptible to the sudden infant death syndrome.

(2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with no known or apparent cause as determined by a physician or a coroner, an autopsy with the written approval of the parents or legal guardian of the child shall be performed within forty-eight (48) hours and the results reported to the cabinet and to the parents or legal guardian of the child.

(3) In order to implement the provisions of this section, the secretary of the Cabinet for Human Resources shall:

(a) Promulgate administrative regulations as may be necessary in order to obtain in proper form all information relating to the occurrence of sudden infant deaths which is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution, and characteristics of cases of the sudden infant death syndrome; and

(b) Collect such factual information from physicians, coroners, medical examiners, hospitals, and public health officials who have examined any child known or believed to have the sudden infant death syndrome; and

(c) Make such factual information available to physicians, coroners, medical examiners, hospitals, public health officials, and educational and institutional organizations conducting research as to the causes and incidence of the sudden infant death syndrome; and

(d) Cause appropriate counseling services to be established and maintained for families affected by the occurrence of the sudden infant death syndrome; and

(e) Conduct educational programs to inform the general public of any research findings of educational and institutional organizations which may lead to the possible means of prevention, early identification and treatment of the sudden infant death syndrome.

SECTION 33. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

Sections 1 through 32 of this Act may be cited as the Vital Statistics Act.

Section 34. KRS 211.027 is amended to read as follows:

The Cabinet for Human Resources shall promulgate reasonable rules and regulations to effectuate the purposes of ***Sections 19 and 20 of this Act*** [~~KRS 213.055~~] and ***KRS*** 311.710 to 311.810, which shall be submitted to the Legislative Research Commission in a manner prescribed in KRS Chapter 13; the Legislative Research Commission shall refer said rules and regulations to the Interim Committee on Health and Welfare for the purpose of approval or disapproval.

Section 35. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of ***Section 8 of this Act*** [~~KRS 213.050(1)~~] shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for Human Resources. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for Human Resources or his designee. The secretary of the Cabinet for Human Resources shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

Section 36. KRS 311.790 is amended to read as follows:

Any child which is live born after an ***induced termination of pregnancy*** [~~attempted abortion~~] shall be fully recognized as a human person under the law and a birth certificate shall be issued certifying the birth of ***the*** [~~said~~] live born person even though ***the*** [~~said~~] person may die thereafter. In the event death does ensue, a death certificate shall be issued. Both the birth and death certificates shall ***be issued*** [~~issue~~] as required by ***Sections 8, 9, and 14 of this Act***[~~KRS chapter 213~~].

Section 37. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and ***Section 8 of this Act*** [~~213.050~~] unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Certificate" means the certificate of birth required by ***Section 8 of this Act***[~~KRS 213.050~~];

(3) "Commission" means the Commission for Handicapped Children;

(4) "Hearing-impaired infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(5) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss;

(6) "High risk infant" means a child at birth who is at a higher risk than normal of being hearing impaired due to one (1) or more of the following factors present at birth:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose or throat anomalies;

(d) Below normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea; and

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate and respiration.

Section 38. The following KRS sections are repealed:

213.010 Vital statistics — Office quarters — Equipment.

213.020 Registration districts.

213.030 Local registrars — Deputies.

213.040 Births to be registered.

213.050 Certificate of birth, who to sign and file — Name of father if child born out of wedlock — Form of certificate — Notice of birth — Hearing risk certificate required.

213.053 Flagging birth certificate of missing child — Procedure when copy requested.

213.055 Abortion reporting — Content of forms — Confidentiality.

213.060 Supplemental report of birth.

213.070 Stillbirths.

213.075 Application.

213.080 Certificate of death — Medical certificate — Requirements.

213.090 Notice of death without physician in attendance — Duties of coroner.

213.100 Obtaining and filing certificate of death.

213.105 Issuance of certificate in absence of body.

213.110 Burial, removal and transit permits — Regulations

213.120 Form of burial permit.

213.122 Use of unclaimed dead bodies for educational or scientific purposes — Transportation — Records.

213.125 Cremation — Coroner's certificate — Permit.

213.130 Duties of persons in charge of burial grounds.

213.140 Physicians, midwives and undertakers to register.

213.150 Fees of local registrar, physician, midwife, sexton and undertaker.

213.160 Institutions to keep records of births, deaths and sickness.

213.170 Local registrars to distribute forms — Records and reports — Office of vital statistics to provide statements, materials.

213.180 Institution to keep records of births, deaths and sickness.

213.190 Certified copies of records — Fees — Use of portion of birth certificate fee for preventing child abuse — Death data to be furnished to state board of elections.

213.195 Delayed birth certificates for persons born prior to 1911.

213.200 Privileged communications.

213.210 Enforcement.

213.320 Domestic relations statistics — Regulations.

213.330 Report of marriage statistics — Clerk's fee.

213.340 Report of information and final judgments in divorce and annulment cases.

213.400 Definition for KRS 213.410.

213.410 Sudden infant death syndrome research program — Reports — Data collection.

213.990 Penalties.

HB 120, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall develop, and enact by administrative regulation, procedures, instructions, worksheets and scales for the determination of a parent's monthly child support obligation, which shall be known as the Kentucky child support guidelines, and which shall take into account:

(a) The child's needs;

(b) The parents' gross income, or potential income if voluntarily unemployed or underemployed;

(c) The parents' assets;

(d) The parents' needs; and

(e) Any other factors the cabinet deems relevant.

(2) The Kentucky child support guidelines shall:

(a) Allocate the costs of raising children between the parents based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together;

(b) Allow a deduction from gross income for the costs of health insurance coverage for the child;

(c) Allow the custodial parent an income disregard to provide a minimum self support reserve and recognize the non-monetary responsibilities of a custodial parent;

(d) Allow a deduction from gross income for the amount of pre-existing orders for child support to the extent payment is actually made under such orders;

(e) Allocate child care costs incurred due to employment, job search or education leading to employment, between the parents.

(3) The Cabinet for Human Resources shall review the Kentucky child support guidelines at least once every four (4) years to ensure that their application results in the determination of appropriate child support amounts.

(4) Copies of the Kentucky child support guidelines shall be made available to the courts, county offices, prosecuting attorneys, and, upon request, to any other state or county office or agency in any way engaged in child support collection and enforcement.

SECTION 2. A NEW SECTION OF KRS 403.210 TO 403.215 IS CREATED TO READ AS FOLLOWS:

(1) An action to establish or enforce child support may be initiated by the parent, child, or person or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) In any proceeding to establish or modify child support, whether temporary or permanent, including proceedings for dissolution of marriage, legal separation, maintenance, child support, establishment of paternity, and juvenile proceedings, domestic violence proceedings or criminal proceedings where support is established, the court shall order either or both parents owing a duty of support to pay an amount for the support of the child or children, without regard to marital misconduct, in accordance with the Kentucky child support guidelines. There shall be a rebuttable presumption that the amount of the award which would result from the application of the Kentucky child support guidelines is the correct amount of child support to be awarded. A written finding that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more following criteria:

(a) A child's medical or dental needs or other extraordinary needs;

(b) A child's educational needs;

(c) A party's own extraordinary needs, such as medical expenses;

(d) Shared physical custody arrangements by which each parent exercises physical custody for more than thirty percent (30%) of the calendar year, defined as more than thirty percent (30%) of all overnights during the year;

(e) The independent financial resources, if any, of the child or children;

(f) Combined parental income in excess of the Kentucky child support guideline; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(3) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs or standard of living of the child, whichever is greater. The order may be retroactively modified upward, without a showing of change in circumstances at the time as sufficient evidence becomes available.

(4) Agreements between the parties establishing the amount of child support shall be in accordance with the Kentucky child support guidelines.

(5) All child support orders shall provide for health care coverage for dependent children if the coverage is reasonable under all the circumstances.

The Committee on State Government reported **HB 2**, **HB 7**, with Committee Substitute attached thereto, **HB 159** and **HR 18**, with Committee Amendment attached thereto, with the expression of opinion

that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT relating to holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.190 is amended to read as follows:

(1) State offices shall be closed and state employees shall be given a holiday on the following days:

(a) The 1st day of January plus one extra day;

(b) ***The 3rd Monday in January;***

(c) The 3rd Monday in February;

(d)[~~(c)~~] Good Friday, one-half day;

(e)[~~(d)~~] The last Monday in May;

(f)[~~(e)~~] The 4th day of July;

(g)[~~(f)~~] The 1st Monday in September;

(h)[~~(g)~~] Presidential election day as required under KRS 2.190;

(i)[~~(h)~~] The 4th Thursday in November plus one extra day;

(j)[~~(i)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one extra day is mentioned in paragraphs (a), ***(i)***[~~(h)~~] and ***(j)***[~~(i)~~] of subsection (1), the Governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employees.

HB 7, AN ACT relating to desecration of venerated objects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.105 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects [~~in the first degree~~] when*:*[~~,~~]

(a) Other than authorized by law, he intentionally excavates or disinters human remains for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains*;*

(b) He intentionally desecrates any public monument or object or place of worship or burial; or

(c) He intentionally desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects [~~in the first degree~~] is a Class D felony.

Section 2. KRS 525.110, Desecration of venerated objects, second degree, is repealed.

The Committee Substitute to **HB 7** is as follows:

HB 7, AN ACT relating to desecration of venerated objects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.105 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the first degree when*:*[~~,~~]

(a) Other than authorized by law, he intentionally excavates or disinters human remains for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains*;*

(b) He intentionally desecrates any public monument or object or place of worship or burial; or

(c) He intentionally desecrates in a public place the National Flag.

(2) Desecration of venerated objects in the first degree is a Class D felony.

Section 2. KRS 525.110 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the second degree when he intentionally[:

~~(a) Desecrates any public monument or object or place of worship or burial; or~~

~~(b)~~] desecrates in a public place ***any*** [~~the national or~~] state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects in the second degree is a Class A misdemeanor.

HB 159, AN ACT relating to legislative facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.463 is amended to read as follows:

The cabinet shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects;

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS Chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45.360;

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the secretary of the Finance and Administration Cabinet. All such sales or other disposition shall be made in accordance with KRS 45.360;

(4) (a) To control the use of any real property owned or otherwise held by the Commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the cabinet finds the same is not required for the purposes of any particular state agency. The cabinet shall allocate to the General Assembly and the Legislative Research Commission the amount of space within the New State Capitol Annex, ***currently assigned to the legislative branch in the basement and on the first floor totalling forty-nine thousand six hundred thirty-eight (49,638) square feet; approximately twenty-four thousand four hundred fifty-two (24,452) square feet on the second floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances and restrooms; approximately twenty-three thousand nine hundred forty (23,940) square feet on the third floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances and restrooms; approximately twenty-two thousand fifty-six (22,056) square feet on the fourth floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances and restrooms. The occupancy of the Capitol Annex by the legislative branch shall be phased in with the Capitol Annex renovation project and shall be completed no later than November 30, 1991*** [~~including but not limited to space in the east basement portion adjacent to the parking garage, not exceeding a total of forty-seven thousand and seventy-two (47,072) square feet, as the General Assembly or Legislative Research Commission may request. The forty-seven thousand and seventy-two (47,072) square feet shall consist of space now occupied by the General Assembly and the Legislative Research Commission; the approximately six hundred (600) square foot storage room known as Room B-2 located in the northeast section of the basement; the approximately eight hundred and fifty (850) square foot room known as the mail room located adjacent to the legislative offices in the southeast section of the basement; the approximately six thousand seven hundred (6,700) square foot space now occupied by the division of engineering located in the northeast section of the first floor and the approximately three thousand and seventy-two (3,072) square foot space now occupied by the division of contracting and administration and the auditor of public accounts in the south central section of the first floor~~]; and

(b) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. Subject to paragraph (a) of this subsection, the cabinet is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the New State Capitol, according to the needs of the various agencies and when necessary to provide additional office space and furnishings in Frankfort under any building program the cabinet deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the General Assembly and its related agencies, including the Legislative Research Commission, and its subcommittees, the executive offices, the Supreme Court and the clerk of the Supreme Court, the Department of Law and the law library, in the New State Capitol, provided the General Assembly and the Legislative Research Commission shall have complete control and exclusive use of the third and fourth floors of the New State Capitol and shall have exclusive use of the space in the New State Capitol Annex allocated to them under paragraph (a) of this subsection. If there be any additional space in the Capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the Capitol;

(5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of Kentucky, any real estate necessary for use by the state or by any state agency, when the cabinet is unable to agree with the owner thereof on a price for such real estate;

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45.360;

(7) To provide for and adopt [~~such~~] plans and specifications as may be necessary, to advertise for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make [~~such~~] changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ [~~such~~] clerks, engineers, statisticians, architects or other persons required to be employed in order to fulfill the functions of the Commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550; and

(8) To adopt [~~such~~] rules and regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

HR 18, A RESOLUTION deploring unnecessary increases in the prices of petroleum products, and requesting an investigation.

WHEREAS, the price of propane and heating oil jumped dramatically in mid-December, during a period of record cold, and has continued to increase since then; and

WHEREAS, gasoline dealers raised their pump prices almost unanimously by ten percent and more between Christmas and New Year's Day; and

WHEREAS, these increases seem to be higher than are justified, supporting suspicions of price gouging by the oil industry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives deplores recent sharp price increases for gasoline, heating oil, propane, kerosene and other petroleum products, which appear to be padding oil company profits, not responding to legitimate cost or supply factors.

Section 2. That the Attorney General is urged to investigate these increases and to act against any company engaged in price collusion.

Section 3. That the Clerk of the House of Representatives is instructed to send a copy of this resolution to President George Bush, to James Watkins, Secretary of the U.S. Department of Energy, to the members of Kentucky's Congressional Delegation, and to Attorney General Fred Cowan.

The Committee Amendment No. 1 to **HR 18** is as follows:

Amend printed copy of **HR 18** on page 1, line 8, by adding after "price" the word "collusion" and by deleting "gouging of consumers".

Orders of the Day

HB 155, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Floor Amendment No. 1 to **HB 155**. Agreed.

Representative Cline moved the adoption of Floor Amendment No. 2 to **HB 155**. Agreed.

Representative Cline moved that **HB 155**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 11. (See January 9, 1990 roll call on **HB 155** - Appendix.)

HB 155, as amended, was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 155**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 6 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved that **HB 6** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See January 9, 1990 roll call on **HB 6** - Appendix.)

HB 6 was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 6** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 8 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 8** be passed.

On the roll call the vote was: Yeas 74, Nays 22. (See January 9, 1990 roll call on **HB 8** - Appendix.)

HB 8 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 8** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative J. Harper moved that **HB 106** be withdrawn. Agreed.

Representative Long moved that **HB 1** be withdrawn. Agreed.

Representative Jensen moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative Jensen moved the adoption of the following Legislative Citation No. 6. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Kathryn Helen Bowling for her courage, compassion and assistance offered to the young children of Laurel County Middle School. On January 12, 1989, a traffic accident involving a Laurel County Middle School bus and a coal truck resulted in one fatality. Kathryn Bowling, a nurse at Marymount Hospital, came upon the accident and without hesitation began triage. Her quality of mind and professional skills guided her in the administration of medical attention until emergency medical assistance arrived, some thirty minutes after the accident. It is with no doubt, her quick actions prevented further fatalities and serious injuries.

The House of Representatives joins Representative Jenson and Kathhryn's father, Representative Charles Siler, in commending her on her heroic actions. This prestigious body extends to Kathryn Helen Bowling best wishes and godspeed for the future.

Representative Bentley moved the adoption of the following **HR 27**:

HR 27, A RESOLUTION commending and recognizing the Cordia High School Girl's Cross Country Track and Field Team.

WHEREAS, this honorable body is pleased to recognize and encourage athletic excellence; and

WHEREAS, nine members of the Cordia High School Girl's Cross Country Track and Field Team - Donna Denise Stacy, Jennifer Gonzales, Asia Adams, Donna Perkins, Karla Gail Brewer, Tina Bush, Penny Hundley, Pamela Grigsby and Jennifer Sturgill - represented their school during the 1989 season; and

WHEREAS, the Area 9 outstanding runner and academic all-state recognition went to Donna Denise Stacy; and

WHEREAS, these outstanding young women best exemplify the finest qualities so inherent in the youth of the Commonwealth; and

WHEREAS, this team was so ably led by Coach Elmer R. Combs and Coach Zella Combs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes the Cordia High School Girl's Cross Country Track and Field Team and wishes them continued success in future endeavors.

Section 2. That sufficient copies of this resolution be sent to Coaches Elmer R. and Zella Combs for distribution to team and staff members at Cordia High School, Route 2, Box 265, Hazard, Kentucky 41701.

HR 27 was adopted by voice vote.

Representative Bentley moved the adoption of the following **HR 28**:

HR 28, A RESOLUTION honoring Cordia High School Boy's Cross Country Track and Field Team.

WHEREAS, this honorable body is pleased to recognize and encourage athletic excellence; and

WHEREAS, Cordia High School Boy's Cross Country Track and Field Team captured the 1989 state championship on November 4, 1989, at the Kentucky Horse Park in Lexington, Kentucky; and

WHEREAS, Cordia High School Boy's Cross Country Track and Field Team won the 1988 state championship, resulting in the only eastern Kentucky team to win two back-to-back tournaments; and

WHEREAS, the AREA 9 1989 outstanding runner award on that occasion went to Shawn Stanley of the Cordia team; and

WHEREAS, the 1989 academic all-state recognition went to Shawn Stanley and Carlton Keith Combs of the Cordia team; and

WHEREAS, nine members of the Cordia High School Boy's Cross Country Team — Shawn Stanley, Brandon Gayheart, Douglas Eugene Bush, Carlton Keith Combs, Richard Ritchie, Bryan Stewart Combs, Shane Stanley, Nicholas Jay Combs and Ryan Ritchie — represented their school at the state championship cross country meet; and

WHEREAS, this championship team was so ably led by Coach Elmer R. Combs and Coach Zella Combs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes the Cordia High School Boy's Cross Country Track and Field Team and wishes them continued success in future endeavors.

Section 2. That sufficient copies of this resolution be sent to Coaches Elmer R. and Zella Combs for distribution to team and staff members at Cordia High School, Route 2, Box 265, Hazard, Kentucky 41701.

HR 28 was adopted by voice vote.

Representative Farrow moved the adoption of the following **HR 30**:

HR 30, A RESOLUTION commending the Lexington *Herald-Leader* for its series of articles "Cheating our Children."

WHEREAS, Kentuckians have historically been engaged in a war to improve the quality of education for all citizens of the Commonwealth; and

WHEREAS, a pivotal battle occurred last year in this continuing war when the Kentucky Supreme Court declared the entire educational system to be unconstitutional; and

WHEREAS, following the high court's declaration, the Lexington *Herald-Leader* began publishing a series of articles entitled "Cheating our Children"; and

WHEREAS, "Cheating our Children" was a superlative expose' of the problems that are thwarting the good faith efforts of the majority of parents, educators, and politicians to comply with the court's dictate; and

WHEREAS, "Cheating our Children" has been a catalyst that has spurred Kentuckians into action from Ashland to Paducah, Covington to Corbin, and Louisville to Pikeville; and

WHEREAS, "Cheating our Children" has served to solidify the public's resolve to eliminate the despicable atrocities and excessive abuses of power that have resulted in a flagrant disregard for the law and endangered an equal and competitive education for our children; and

WHEREAS, "Cheating our Children" has enlightened and renewed the hope and future of the children of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body, both individually and collectively, do hereby commend the Lexington *Herald-Leader* for its series of articles entitled "Cheating our Children."

Section 2. That the House does hereby recognize and honor the many individuals that contributed to this exemplary and exhaustive piece of journalism.

Section 3. That the Clerk of the House is hereby directed to transmit a copy of this resolution to John S. Carroll, Editor, Lexington *Herald-Leader.*

HR 30 was adopted by voice vote.

Representative T. Jones moved that **HB 234** be withdrawn. Agreed.

Representative T. Jones moved the adoption of the following **HR 26**:

HR 26, A RESOLUTION adjourning the House of Representatives in honor of the birth of Elvis Aaron Presley.

WHEREAS, in the chill of the night of that January 8th, fifty-five years ago, Dr. William Robert Hunt attended the birth of the King of Rock and Roll, Elvis Aaron Presley; and

WHEREAS, Elvis Aaron was preceded in birth by his stillborn brother, Jessie Garon, with whom the King later communed across ethereal bounds; and

WHEREAS, the son of Vernon and Gladys Presley grew to become the Jupiter of Jive, the Ruler of Rhythm, the Caesar of Song; and

WHEREAS, while others shirked their patriotic duties, Elvis Aaron Presley donned the military uniform of his country; and

WHEREAS, the voice of the King has been on a far different plane since August of 1977; and

WHEREAS, all the world holds a hunka, hunka burning love for the soul who transcends the ages;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does recognize the eternal gift that Elvis Aaron Presley gives to the international community of music.

Section 2. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Friday, January 5, 1990, it does so in honor of Elvis Aaron Presley.

HR 26 was adopted by voice vote.

Representative Heleringer moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 32, by Representative Heleringer: A RESOLUTION adjourning the House in memory and honor of Sharon Rose Helton.

Representative Heleringer moved the adoption of the following **HR 32**:

HR 32, A RESOLUTION adjourning the House in memory and honor of Sharon Rose Helton.

With heavy hearts we mourn the passing of our friend Sharon Helton for she has crossed that final bourne from which no traveller returns.

WHEREAS, on Friday, December 22, 1989, Sharon Helton lost her battle with cancer at the young age of 42; and

WHEREAS, Sharon Rose Helton had worked in these hallowed halls, serving as a legislative aide to former Lieutenant Governor Martha Layne Collins; and

WHEREAS, Sharon Helton had also served in the Capital City as an employee of the State Democratic Party, as well as the Kentucky Transportation Cabinet; and

WHEREAS, Sharon Helton was an accomplished strategist — an exceptional individual whose professionalism, expertise, and sound political judgment earned her great respect in Frankfort and the reputation of being a first-rate lobbyist; and

WHEREAS, even though Sharon Helton was one of the toughest competitors in the political arena, she remained a compassionate and devoted public servant who championed the causes of consumers and the rights of victims; and

WHEREAS, Sharon Helton was the beloved and longtime Executive Director of the Kentucky Academy of Trial Attorneys; and

WHEREAS, over the past decade Sharon Helton had dedicated her energies into transforming the Kentucky Academy of Trial Attorneys (KATA) from a struggling local organization with only a few members and virtually no budget into a powerful and prestigious statewide organization boasting a membership of over 1200 and a budget in excess of a quarter of a million dollars; and

WHEREAS, Sharon Helton was a member of the National Association of Trial Lawyers of America, the National Association of Personnel Executives, the Kentucky and American Society of Association Executives, the Kentucky and United States Business and Professional Women, the Kentucky Women Advocates, the Association of Professional Business Women, and the State Chamber of Commerce; and

WHEREAS, Sharon Helton successfully balanced her career and professional aspirations with her devotion to her role as mother to her cherished son Jonathan, age 14, and daughter Jessamyn, age 12; and

WHEREAS, Sharon Rose Helton was an extraordinary woman whose passing has created a void that will not soon be filled;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby express our sense of bereavement and loss upon the death of our friend Sharon Helton.

Section 2. That the House commends Jonathan and Jessamyn Helton, and Sharon's mother, Lorine Gannaway, and sisters Rita Bear, Jeannene Regal and Linda Lambeth, to the solace of the Almighty during these dark and painful hours — his strength will provide comfort and courage to face the future.

Section 3. That we do hereby posthumously proclaim Sharon Rose Helton to have been an outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 4. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Tuesday, January 9, 1990, it does so in memory and honor of Sharon Rose Helton of Louisville, Kentucky.

Section 5. That the Clerk of the House is hereby directed to transmit a copy of this resolution to the family of Sharon Helton, 10203 Exmoor Avenue, Louisville, Kentucky 40243, and to the Kentucky Academy of Trial Attorneys, 200 Cumberland Building, 12700 Shelbyville Road, Middletown, Kentucky 40243-1573.

HR 32 was adopted by voice vote.

Representative Noe moved the adoption of the following **HR 23**:

HR 23, A RESOLUTION honoring Ashland Oil, Inc. for its activities in support of the Commonwealth's teachers.

WHEREAS, Ashland Oil, Inc. has distinguished itself as a corporate citizen through its support of quality education since the corporation's founding 65 years ago; and

WHEREAS, the company's traditional support of education through grants, donations, and gifts has been further supplemented for the past six years by special advertising messages which have promoted the importance of quality education to the Commonwealth's citizens; and

WHEREAS, innovative dropout prevention programs initiated by the company and support of literacy and GED programs have had a significant impact in increasing the number of Kentuckians who have high school diplomas or their equivalent; and

WHEREAS, the importance of teaching excellence and the Commonwealth's excellent teachers are being recognized and being promoted by Ashland Oil through its advertising and through a company-sponsored $50,000 teacher achievement awards program; and

WHEREAS, the message of Ashland Oil's advertising — "Teachers change lives." — is a concept which is in total accord with this body;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly honors and commends Ashland Oil, Inc. for its longstanding support of education and in particular for its recognition of the special role that teachers play in our lives.

Section 2. That the Clerk of the House of Representatives is instructed to send a copy of this resolution to Mr. John R. Hall, chairman and chief executive officer, Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41114.

HR 23 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 253, by Representative Johnson: AN ACT relating to transient merchants.

HB 254, by Representative Johnson: AN ACT relating to the state board of medical licensure.

HB 255, by Representative McElroy: AN ACT relating to revenue and taxation.

HB 256, by Representatives Noe and T. Jones: AN ACT relating to preschool education for exceptional children and making an appropriation therefor.

HB 257, by Representative Casebier: AN ACT relating to crimes and punishments.

HB 258, by Representative Casebier: AN ACT relating to crimes and punishments.

HB 259, by Representatives T. Jones, Noe, Barrows, Farrow, Hancock, Crupper, Moberly and Long: AN ACT relating to travel expenses of state officers and employees.

HB 260, by Representative Priddy: AN ACT relating to motor vehicle offenses.

HB 261, by Representative Priddy: AN ACT relating to probation and parole.

HB 262, by Representative Priddy: AN ACT relating to criminal identification.

HB 263, by Representatives Geveden and Lewis: AN ACT relating to economic development planning.

HB 264, by Representative Kerr: AN ACT relating to insurance.

HCR 33, by Representatives Reinhardt and Arnold: A CONCURRENT RESOLUTION reconstituting the Licking River Basin Task Force.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 52, HB 98, HB 207, HB 212**

Economic Development and Tourism: **HB 137**

Natural Resources and Environmental Protection: **HB 31, HB 87**

Report of Committees

The Committee on Natural Resources and Environmental Protection reported **HB 87** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 87, AN ACT relating to public works.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224A.011 is amended to read as follows:

As used in this chapter, ***unless the context requires otherwise*** [~~the following words or terms shall have the respective meanings indicated whenever used in this chapter, unless a different meaning is clearly indicated by the context~~]:

(1) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(2) "Assistance agreement" ***means*** [~~shall mean~~] the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(3) "Authority" ***means*** [~~shall mean~~] the Kentucky Infrastructure Authority, which is created by this chapter.

(4) "Authority revenues" means the totality of all:

(a) Service charges;

(b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111 and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement; and

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(5) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement or other activity to provide for flood control.

(6) "Construction" [~~means and~~] includes, ***but is not limited to*** [~~inter alia~~]:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary to the construction of infrastructure projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement or extension of infrastructure projects; and

(c) The inspection and supervision of the construction of infrastructure projects and all costs incidental to the acquisition and financing of same.[~~;~~] ***This*** [~~such~~] term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure projects.

(7) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Natural Resources Cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(8) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating and distributing water for agricultural, industrial, commercial, recreational, public and domestic use.

(9) "Federal act" means the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.

(10) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(11) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure projects. ***This*** [~~and such~~] definition shall specifically apply, but not by way of limitation, to incorporated cities, counties, including any counties containing a metropolitan sewer district, sanitation districts, water districts, ***water associations if obligations of these associations offered as revenue bonds or other evidence of indebtedness shall have been determined to be tax exempt securities consistent with Section 103 of the Internal Revenue Code,*** sewer construction districts, metropolitan sewer districts, sanitation taxing districts, and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multi-municipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing ***the*** [~~such described~~] powers ***described in this subsection.***

(12) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing or recovery of any natural resources, including heat and radioactivity, together with ***any*** [~~such~~] sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating or manufacturing processes.

(13) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority and, if required, by the Natural Resources Cabinet, Public Service Commission or other agency; solid waste management facilities; dams; storm water control and treatment systems; solid waste handling and disposal facilities; gas or electric utility; or any other public utility or public service project which the authority finds would enhance economic development opportunities in a governmental agency.

(14) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(15) "Interim financing agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance and delivery of long-term debt obligations to effect assistance to said governmental agency.

(16) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(17) "Market interest rate" means the interest rate available to governmental agencies from sources other than those defined by this chapter at the time the authority shall provide financial assistance to a governmental agency.

(18) "Natural Resources Cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(19) "Obligation of a governmental agency" means a revenue bond issued by a governmental agency under KRS 58.010 et seq.

(20) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(21) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders ***the*** [~~such~~] waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of ***these*** [~~such~~] waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(22) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Natural Resources Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund, or the list of infrastructure projects which the Department of Local Government has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund.

(23) "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(24) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement. Said term shall mean any moneys and funds agreed to be paid on an annual automatically renewable basis by any county, including any county containing a metropolitan sewer district, to the authority pursuant to an assistance agreement.

(25) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(26) "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether ***the*** [~~such~~] facility is associated with facilities generating ***the*** [~~such~~] waste or otherwise.

(27) "State" means the Commonwealth of Kentucky.

(28) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from ***wastewater*** [~~such~~] treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act.

(29) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or pursuant to the standards set forth in KRS 224A.120.

(30) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of ***these*** [~~such~~] waters.

(31) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(32) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(33) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground, waters.

(34) "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representative Riner; **HB 3**, Representative P. Richardson; **HB 7**, Representatives Ark, Ballard, Ridley, Stumbo; **HB 9**, Representatives K. Harper, Sheehan; **HB 12**, Representative Butler; **HB 20**, Representative K. Harper; **HB 31**, Representative Maggard; **HB 43**, Representatives Casebier, Lile, Mullinix, Riner; **HB 62**, Representatives LeMaster, Long; **HB 73**, Representatives Ford, Maggard, Turner; **HB 82**, Representatives Turner, Ford, Jensen; **HB 97**, Representatives Cline, Gedling, Geveden, A. Jones, Lefevers, Lewis, Noland, B. Richardson, Ridley, Turner; **HB 99**, Representative Todd; **HB 113**, Representatives Ark, Noe, Stumbo; **HB 126**, Representatives Ford, Mack, Turner, Nelson; **HB 135**, Representatives Castleman, Curd; **HB 136**, Representative Noe; **HB 155**, Representatives Adkins, Blevins, Noe; **HB 159**, Representative Bruce; **HB 207**, Representative Preston; **HB 210**, Representative Preston; **HB 212**, Representative Donnermeyer; **HB 213**, Representative Donnermeyer; **HB 214**, Representatives LeMaster, Scorsone; **HB 232**, Representative White; **HB 233** Representatives Adkins, Jackson, Lyne: **HJR 8**, Representatives L. Clark, P. Clark, Heleringer, Jensen, A. Jones, Nelson; **HR 18**, Representative Castleman.

Representative Casebier requested that he be withdrawn as co-sponsor on **HB 202**.

Announcements

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 2 to the Committee Substitute to **HB 9**, by Representative Callahan:

Amend printed copy of HCS for **HB 9** on page 1, line 20, by inserting after the word "***of***" the words: ***"the fund from"***; and

on page 1, line 21, by inserting after the word "***of***" the words: ***"the fund from"***; and

on page 3, line 23, by inserting after the word "***of***" the words: ***"the fund from"***; and

on page 3, line 24, by inserting after the word "***of***" the words: ***"the fund from"***; and

on page 4, line 24, by inserting after the word "***of***" the words: ***"the fund from"***; and

on page 4, line 25, by inserting after the word "***of***" the words: ***"the fund from"***; and

on page 6, line 8, by inserting after the first word "***of***" the words" ***"the fund from"***; and

on page 6, line 8, by inserting after the second word "***of***" the words: ***"the fund from"***; and

On page 2, line 3, by inserting after the word "***members***" the words "***or all of the retired members***"; and

on page 2, line 4, by inserting after the word "***members***" the words "***or both of the retired board members, as the case may be,***"; and

on page 4, line 1, by inserting after the word "***members***" the words "***or all of the retired members***"; and

on page 4, line 2, by inserting after the word "***members***" the words "***or both of the retired board members, as the case may be,***"; and

on page 5, line 2, by inserting after the word "***members***" the words "***or all of the retired members***"; and

on page 5, line 3, by inserting after the word "***members***" the words "***or both of the retired board members, as the case may be,***"; and on page 6, line 10, by inserting after the word "***members***" the words "***or all of the retired members***"; and

on page 6, line 11, by inserting after the word "***members***" the words "***or both of the retired board members, as the case may be,***".

The Clerk announced the cancellation of the following meetings:

Economic Development, January 10, 1990;

Business Organizations and Professions, January 11, 1990.

The Clerk announced the following meeting:

Labor and Industry, 9:00 a.m., Wednesday, January 10, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 10, 1990.

On the roll call the vote was yeas 88—Ackerson, Allen, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Zimmerman. Nays 3—Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 10, 1990

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Bandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 9, 1990 be dispensed with and the same approved. Agreed.

Introduction of Bills

HB 265, by Representatives Farrow, Gedling, Napier and B. R. Smith: AN ACT relating to water service and making an appropriation therefor.

HB 266, by Representative McElroy: AN ACT relating to charges by state agencies for services and products.

HB 267, by Representative LeMaster: AN ACT relating to insurance.

HB 268, by Representative Morris: AN ACT relating to health insurance.

HB 269, by Representative Lear: AN ACT relating to residential care facilities for handicapped persons.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 31**

Appropriations and Revenue: **HB 244, HB 250, HB 255**

Banking and Insurance: **HB 243, HB 264**

Business Organizations and Professions: **HB 253**

Counties and Special Districts: **HB 251**

Economic Development: **HB 242**

Education: **HB 256**

Health and Welfare: **HB 254**

Judiciary: **HB 245, HB 246, HB 247, HB 248, HB 249, HB 257, HB 258, HB 260, HB 261, HB 262, HCR 29**

Natural Resources and Environmental Protection: **HCR 33**

State Government: **HB 259, HB 263**

Transportation: **HB 252**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary: **HB 95, HB 179, HB 180, HB 208, HB 214, HB 217, HB 227**

Report of Committee

The Committee on Appropriations and Revenue reported **HB 103, HB 145, HCR 4** and **HCR 9** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 103, AN ACT relating to debt.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 3 of this Act, unless the context requires otherwise:

(1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the U.S. Department of Commerce, Bureau of Economic Analysis.

(2) "Estimated state total personal income" means the personal income figure used by the Finance and Administration Cabinet to generate final detailed revenue estimates.

(3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.

(4) "Anticipated total revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.

(5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(6) "Anticipated available revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the Revenue Cabinet.

(8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky state data center.

(9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.

(10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.

(11) "Non-appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.

(12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:

(a) Receipts credited to the general fund which are subject to KRS 24A.191 to 24A.192, KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;

(b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531, or KRS 186.535; and

(c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.

(13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the U.S. Tax Reform Act of 1986.

Section 2. KRS 42.410 is amended to read as follows:

(1) The Office for Investment and Debt Management established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to 41.390 and 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The evaluation of revenue projections relative to proposed revenue bond issues;

(f) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;

(g) All other functions of the department relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the state property and buildings commission and the state investment commission.

(2) The Office for Investment and Debt Management shall render monthly written reports concerning the performance of each investment to the state investment commission.

(3) The Office for Investment and Debt Management shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The office of investment and debt management shall submit a report ***within ninety (90) days of*** [~~at~~] the end of each fiscal year to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, [~~and~~] disposition of savings***, and information on economic, fiscal and market indicators of the Commonwealth's debt position.***

(5) ***The state debt report shall include, but not be limited to, economic, fiscal and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.***

(6) Economic indicators shall include:

(a) Non-appropriation-supported debt as a percent of state total personal income;

(b) Non-appropriation-supported debt as a percent of total assessed value of property;

(c) Non-appropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each non-appropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each non-appropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 3. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The Governor shall include in the executive branch budget recommendation and in the draft joint budget resolution for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1980, and for each biennium thereafter, a recommended state capital construction program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;

2. The justification for the project;

3. Its estimated completion date;

4. The total estimated cost of completing the project;

5. The estimated cost of the project during the biennium;

6. The recommended sources of funds for the entire project; and

7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The joint budget resolution for the executive branch shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6. and 7. of subsection (2)(b) of this section.

(4) ***A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund and for any affected restricted fund account.***

(5) Information in the report shall include, but not be limited to, the following:

(a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;

(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;

(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;

(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;

(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and

(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in the executive branch budget recommendation and in the joint budget resolution for the executive branch enacted by the General Assembly, except as provided in KRS 45.770 and 45.780.

(7)[~~(5)~~] The recommended program for the purchase of major items of equipment shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;

2. The justification for the purchase;

3. The estimated cost of the item;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8)[~~(6)~~] All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The joint budget resolution for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4. and 5. of subsection ***(7)*** [~~(5)~~](b) of this section.

(9)[~~(7)~~] When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the capital construction program. Moneys appropriated for that project or item of equipment but not allotted, and moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund.

(10)[~~(8)~~] Projects and major items of equipment disapproved under subsection ***(9)*** [~~(7)~~] of this section shall be terminated.

(11)[~~(9)~~] During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in the executive branch budget recommendation and in the appropriation act or acts enacted by the General Assembly and authorizing the purchase, except as provided in subsection ***(12)*** [~~(10)~~] of this section and in KRS 45.770 and 45.780.

(12)[~~(10)~~] A major item of equipment to be used for medical, scientific or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts enacted for the current biennium subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the capital projects and bond oversight committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13)[~~(11)~~] A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The Finance and Administration Cabinet shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(14)[~~(12)~~] The General Assembly may provide in a budget bill for the capital construction and equipment purchase contingency fund to be used to advance funds to projects authorized to be financed by bonds, and to finance feasibility studies for projects which may be contemplated for future funding.

(15)[~~(13)~~] On or before September 1, the secretary of the Finance and Administration Cabinet shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation;

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

9. Justification for the project or major item of equipment;

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

HB 145, AN ACT relating to a uniform financial information report for local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 5 of this Act, unless the context requires otherwise:

(1) "City" means every city organized and governed under the mayor-alderman form of government pursuant to KRS Chapter 83, every city organized and governed under the mayor-council form of government pursuant to KRS Chapter 83A, every city organized and governed under the commission form of government pursuant to KRS Chapter 83A, every city organized and governed under the city manager form of government pursuant to KRS Chapter 83A, and every urban-county government organized and governed under the urban-county form of government pursuant to KRS Chapter 67A.

(2) "County" means any of Kentucky's one hundred and twenty (120) counties.

(3) "Special district" means any district with ad valorem taxing powers including, but not limited to, those specified in the following KRS statutes: KRS 75.010 to 75.260, KRS 76.274 to 76.279, KRS 104.450 to 104.680, KRS 107.310 to 107.500, KRS 108.080 to 108.180, KRS 109.115 to 109.190, KRS 147.610 to 147.710, KRS 164.605 to 164.675, KRS 173.450 to 173.650, KRS 173.710 to 173.800, KRS 179.700 to 179.990, KRS 210.370 to 210.480, KRS 212.720 to 212.760, KRS 216.310 to 216.360, KRS 220.010 to 220.613, KRS 262.010 to 262.660, KRS 262.700 to 262.990, KRS 266.010 to 266.990, KRS 268.010 to 268.990 and KRS 269.100 to 269.270.

(4) "Local government" includes the terms city, county, and special district as defined in this section.

(5) "Lease purchase agreement" means an agreement to lease or to lease and purchase major items of property, equipment, or services estimated to cost fifty thousand dollars ($50,000) or more, and two hundred thousand dollars ($200,000) or more for the construction or installation of a building or a utility.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Each local government shall annually, after the close of the fiscal year, complete a uniform financial information report. The report shall be submitted to the Department of Local Government by February 1 immediately following the close of the fiscal year. The Department of Local Government shall immediately send one (1) copy of the uniform financial information report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(2) Each city may have the uniform financial information report completed by its selected auditor as part of the terms and conditions of the written agreement between the city and the auditor pursuant to KRS 91A.040. Each county may have the uniform financial information report completed by its auditor selected pursuant to KRS 43.070 or 64.810. Each special district may have the uniform financial information report completed by its auditor selected pursuant to KRS 65.065. If a city does not use the auditor to complete the uniform financial information report, it shall by ordinance designate an elected or non-elected official to be responsible for annually completing the report and submitting it to the Department of Local Government. If a local government has any agency, board, or commission that receives any funding from the local government, but conducts its operations on an autonomous or semi-autonomous basis, the local government shall note on the uniform financial information report the name of the agency, board, or commission; the mailing address of the agency, board, or commission; and the dollar amount annually appropriated by the local government to the agency, board, or commission.

(3) The Department of Local Government shall by administrative regulation prescribe the format of the uniform financial information report. The department shall attempt to coordinate and combine efforts with the United States Bureau of the Census in the development of the format of the uniform financial information report so that a single report will meet the needs of both agencies and fulfill the requirements of this Act. Regardless of any agreement between the Department of Local Government and the United States Bureau of the Census, the department shall maintain responsibility for assuring that a uniform financial information report is distributed to each local government as soon as practicable after the close of each fiscal year, but in no event later than one hundred twenty (120) days prior to the required submission date of February 1.

(4) The Department of Local Government shall use the uniform financial information report to replace as many financial information forms as possible that local governments are currently required to complete and submit to the department for use by either the state or federal governments, by consolidating the required information into the uniform report.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The uniform financial information report shall include, but not be limited to, information relating to demographics, bonded indebtedness, debt service requirements, lease purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues, charges for services and all expenditures as set forth in this section.

(2) Demographic information shall include:

(a) The name of the unit of local government;

(b) The county in which the city or special district is located;

(c) The classification of the city;

(d) The population of the unit of local government;

(e) The form of government of the city; and

(f) The area development district in which the unit of local government is located.

(3) Bonded indebtedness and debt service information shall include:

(a) The name of each project listed individually;

(b) The type of bond issue used for each project;

(c) The bonded indebtedness of each project;

(d) The debt service requirements of each project; and

(e) The specific source of debt service funds, whether local government appropriations or use of non-government funds.

(4) Lease purchase agreement information shall include:

(a) Purpose of the agreement;

(b) Identity of the lessor;

(c) Principal amount of the agreement;

(d) Interest rate or rates for the agreement;

(e) Date the local government entered into agreement;

(f) Length of term of agreement;

(g) Current annual debt service requirements for agreement; and

(h) A list of and the purpose of any short-term renewal bank notes.

(5) Tax rate and revenue information shall include:

(a) The compensating tax rate and the maximum tax rate for the current fiscal year and the preceding fiscal year;

(b) The current fiscal year ad valorem tax rate levied by the local government, the preceding fiscal year revenues collected by the local government, and the assessed property valuation for real property, tangible and intangible personal property, and motor vehicles; and

(c) The current fiscal year tax rate levied by the local government and the preceding fiscal year revenues collected by the local government for the following types of taxes:

1. Occupational license tax on persons;

2. Occupational license tax on business net profits, gross receipts, or a flat rate;

3. Business inventory tax;

4. Insurance premium tax on fire and allied perils, casualty liability only, vehicle, inland marine, health, life, all other risks taxed, minimum tax and company taxable reserves;

5. Transient room tax;

6. Restaurant tax;

7. Bank shares;

8. Tobacco in storage;

9. Delinquent collections; and

10. Special purpose and other taxes.

(6) Information on licenses, permits, and fees shall include the amount charged and the preceding fiscal year revenues collected by the local government for the following types of licenses, permits, and fees:

(a) Alcoholic beverage licenses for the manufacture and sale, distilled spirits and wine, malt beverages, Sunday sales, and regulatory license fee on gross receipts;

(b) Required sticker fees on automobiles and trucks;

(c) Motor vehicles fees on taxicabs, truck-tractors, semi-trailers and trailers;

(d) Coin operated machines;

(e) Cable television;

(f) Building, electrical, and plumbing permits;

(g) Zoning permits and development impact fees;

(h) Building, elevator, electrical, plumbing, food, rehabilitation, and any other inspection fees;

(i) Licensing of electricians and electrical contractors;

(j) Unloading fees;

(k) Public service fees for fire protection, police protection;

(l) Ambulance service franchise fees and ambulance run fees;

(m) Animal license fees; and

(n) Any other source of license, permit or fee.

If varying rates or fees are charged based upon classification, volume, value or other criteria, the local government shall submit a fee chart with the report form.

(7) Information on utilities shall include the franchise tax or fee, charge for service, user fee or "tap on" fee and preceding fiscal year revenues collected by the local government on the following utilities:

(a) Waterworks;

(b) Sewage treatment;

(c) Electric light, heat and power;

(d) Gas;

(e) Garbage collection for residential, commercial and industrial customers, and landfill fees;

(f) Transit authority; and

(g) Any other type of utility.

If varying rates or fees are charged based upon classification, volume, value or other criteria, the local government shall submit a fee chart with the report form.

(8) Information on intergovernmental revenues shall include the types of intergovernmental revenues received by the local government, preceding fiscal year revenues collected by the local government, and rate and interest requirements for loan repayments that shall include:

(a) Kentucky law enforcement foundation program fund;

(b) Professional fire fighters foundation program fund;

(c) Community development block grant funds;

(d) County or municipal road aid;

(e) Local government economic assistance funds;

(f) Net court revenues;

(g) Kentucky Infrastructure Authority funds;

(h) Economic development bonds;

(i) Kentucky Development Finance Authority funds;

(j) Environmental Protection Agency funds;

(k) County or city transfers; and

(l) Any other source of state or federal funds.

(9) Information on miscellaneous revenues and charges for services shall include the source of revenue, charge or fee levied by the local government and preceding fiscal year revenues collected for the following:

(a) Parking meter receipts;

(b) Parking facility receipts;

(c) Parking violation fines;

(d) Charges for impounded vehicles;

(e) Sale of abandoned vehicles;

(f) Delinquent tax bills;

(g) Fines and forfeitures;

(h) Penalties and interest;

(i) Franchise payments for governmental services bid out to the private sector;

(j) Golf course receipts;

(k) Parks and recreation;

(l) Proceeds from sale of seized and forfeited property;

(m) Rent;

(n) Interest from investments and dividends; and

(o) Any other source of revenue or charge for service.

(10) Information on expenditures shall be listed by total only and indicate the fund from which an appropriation was made. The Department of Local Government shall consult with the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Municipal Finance Officers' Association, and other affected interest groups, as well as local officials in the development of information to be included in the expenditure section of the uniform financial information report.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The first uniform financial information report local governments shall be required to complete pursuant to this Act, shall be submitted to the Department of Local Government on or before February 1, 1992, for the July 1, 1990, to June 30, 1991, fiscal year.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any local government that fails to submit annually a uniform financial information report to the Department of Local Government shall be ineligible to receive county or municipal road aid moneys pursuant to KRS 177.360 or 177.366. Any local government receiving road aid moneys pursuant to KRS 177.365 to 177.369 or KRS 177.320 and 177.360 that fails to comply with the provisions of this Act shall immediately have all road aid payments suspended until the local government submits the uniform financial information report to the Department of Local Government.

Section 6. KRS 177.366 is amended to read as follows:

(1) ***Except as provided in subsection (8) of this section,*** on and after July 1, 1980, the Finance and Administration Cabinet shall allocate to each incorporated city and "unincorporated urban place" its pro rata share of the funds set apart for construction, reconstruction, and maintenance of urban roads and streets on the basis of the ratio which the population in ***the*** [~~said~~] incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here, means an area as defined in KRS 81.015, and any area outside of incorporated cities, which area has a population of 2,500 or more as shown by the most recent decennial census of the United States Bureau of the Census, and all populations shall be determined by the most recent decennial census of the United States.

(2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the municipal aid program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population of the newly incorporated area as it existed at the time of the last decennial census.

(3) In the event the newly incorporated area cannot obtain a population count from the Bureau of the Census, it shall not be eligible to participate in the municipal aid program until the next decennial census.

(4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.

(5) It shall be the responsibility of the incorporated city to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population for the annexed area as it existed at the time of the last decennial census.

(6) ***If*** [~~In the event~~] the incorporated area cannot obtain a population count from the Bureau of the Census, the annexed area's population ***shall*** [~~will~~] not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas ***shall*** [~~will~~] be eligible to receive work through this program.

(7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.

(8) Any local government eligible to receive municipal road aid moneys pursuant to KRS 177.365 to 177.369 shall be required to submit a uniform financial information report to the Department of Local Government pursuant to Section 1 of this Act before any payment of municipal road aid funds shall be made. The Department of Local Government shall notify the Finance and Administration Cabinet no later than March 1 annually of any local government that has not submitted a uniform financial information report. The Finance and Administration Cabinet shall upon notification by the department, immediately suspend all municipal road aid moneys to the local government until the local government complies with the provisions of this Act and submits the uniform financial information report to the Department of Local Government. The department shall immediately,notify the Finance and Administration Cabinet to reinstate municipal road aid moneys to any local government affected by this subsection as soon as the local government submits the uniform financial information report.

Section 7. KRS 177.360 is amended to read as follows:

(1) ***Except as provided in subsection (5) of this section,*** the Department of Rural and Municipal Aid shall allocate the funds set apart under KRS 177.320(1) for construction, reconstruction and maintenance of state maintained secondary and rural highways as follows:

(a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.

(b) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.

(c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.

(d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.

(2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering and other costs of the program.

(3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the Department of Rural and Municipal Aid in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.

(4) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.

(5) Any county eligible to receive county road aid moneys pursuant to KRS 177.320 and 177.360 shall be required to submit a uniform financial information report to the Department of Local Government pursuant to Section 1 of this Act before any payment of county road aid funds shall be made. The Department of Local Government shall notify the Department of Rural and Municipal Aid no later than March 1 annually of any county that has not submitted a uniform financial information report. The Department of Rural and Municipal Aid shall upon notification by the department immediately suspend all county road aid moneys to the county until the county complies with the provisions of this Act and submits the uniform financial information report to the Department of Local Government. The department shall immediately notify the Department of Rural and Municipal Aid to reinstate county road aid moneys to any county affected by this subsection as soon as the county submits the uniform financial information report.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The Department of Local Government shall consult with the Legislative Research Commission to determine a format for electronic data which is acceptable to both. At the earliest date possible, but no later than September 30, 1992, and each year thereafter, the Department of Local Government shall provide a copy of all reliable data from the uniform financial information reports of all reporting governments to the Legislative Research Commission in the agreed upon electronic format.

HCR 4, A CONCURRENT RESOLUTION directing a study of the Commonwealth's legal and practical liability for debt issued by local governments and by independent state debt issuing authorities.

WHEREAS, debt issued by cities, counties, and special districts accounts for nearly two-thirds of the total outstanding debt issued by governments in Kentucky; and

WHEREAS, debt issued by non-appropriation supported, independent state debt-issuing authorities accounts for over forty percent of the debt issued by state authorities and represents the fastest growing category of state debt since 1980; and

WHEREAS, there exists considerable uncertainty regarding the legal and practical fiscal liability of the General Assembly in the event of a default on a bond issued by a local government or a non-appropriation supported, independent state debt-issuing authority; and

WHEREAS, the General Assembly may want to establish more stringent oversight and reporting procedures regarding the debt for which it does have significant legal and practical responsibility;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission conduct a detailed study of the legal and practical liability of the General Assembly in the event of a default on a bond issued by a unit of Kentucky local government or by a non-appropriation supported, independent state debt-issuing authority. The study shall include but not be limited to the following:

(1) Assessment of the legal and practical liability of the General Assembly in the event of a default on a bond:

(a) Issued by a state independent debt-issuing authority but which debt was not intended to be serviced by an appropriation of the General Assembly. Examples of these authorities include, but are not limited to the Kentucky Development Finance Authority, the Kentucky Housing Authority, the Kentucky Infrastructure Authority, the Kentucky Higher Education Student Loan Corporation, the Kentucky Local Correctional Facilities Construction Authority, and the Kentucky Agricultural Finance Corporation;

(b) Issued by a city, county or special district and which debt service is intended to come from an appropriation of that governing body;

(c) Issued by a city, county or special district and which debt service is not intended to come from an appropriation of that governing body. Industrial revenue bonds are an example of this category of debt;

(d) Issued by any private organization for the purpose of establishing a bond pool for use by units of Kentucky government, including, but not limited to, those established by the Kentucky League of Cities and the Kentucky Association of Counties;

(2) Recommendations concerning reporting and oversight procedures which should be established for any category of debt for which the General Assembly is determined to have significant legal and practical liabilities.

Section 2. That the study be completed no later than July 1, 1991, for referral to the appropriate committee of jurisdiction to consider study recommendations.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000) and shall be provided from the regular Legislative Research Commission budget, subject to he limitations and other research responsibilities of the Commission.

HCR 9, A CONCURRENT RESOLUTION reauthorizing and reestablishing a task force to study debt limits and other issues related to the creation of debt.

WHEREAS, the 1988 Regular Session of the General Assembly authorized and established a task force to determine safe levels of debt and develop a debt capacity model;

WHEREAS, the task force has prepared legislation for adoption by the 1990 Regular Session of the General Assembly the effects of which, if adopted, should be observed by a body familiar with the intent of the legislation; and

WHEREAS, the task force, during the course of its deliberations and study, identified areas related to the question of debt limits which were not addressed due to insufficient time to do so, but should be addressed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly should reestablish a task force to continue the study of state debt limits and study other issues related to the creation of debt. The task force shall consist of: the chairmen of the House and Senate Appropriations and Revenue Committees, who shall serve as co-chairmen; two legislators, one legislative staff member, one economist, appointed by the Legislative Research Commission; the secretary of the Finance and Administration Cabinet, or his designee; the executive director of the Office of Financial Management and Economic Analysis; and the State Budget Director.

Section 2. This task force should report its findings to the Legislative Research Commission no later than September 1, 1991. Staff services to be utilized in completing this study are estimated to cost $10,000 and shall be provided from the regular Legislative Research Commission budget.

The Committee on Appropriations and Revenue reported **HB 157**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 157, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.170 is amended to read as follows:

The Revenue Cabinet may, when extension is not otherwise provided for, grant a reasonable extension of time for filing reports or returns whenever, in its judgment, good cause therefor exists. The cabinet shall keep a record of such extensions. Except where a taxpayer is abroad, no extension shall be granted for more than six (6) months, and in no case for more than one (1) year. If any extension operates to postpone a tax payment, interest at the ***tax interest rate as defined in KRS 131.016(6)*** [~~rate of one-half of one percent (.5%) per month or part thereof~~] shall be collected. The cabinet may condition the extension upon a bond sufficient to cover any tax and penalty determined to be due. The cabinet may, on request, permit a person to file a tax return or report or pay tax on a date other than that prescribed by statute, or to change the fiscal period covered by such return or report, if such a variation will not ultimately effect a reduction in revenue.

Section 2. KRS 136.050 is amended to read as follows:

(1) Except where otherwise specially provided, all corporations required to make reports to the Revenue Cabinet shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Board of Tax Appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following March 31 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of ten percent (10%) per annum~~].

Section 3. KRS 137.180 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall, on or before thirty (30) days following the close of each duly licensed race meeting, furnish the Revenue Cabinet a verified report of the number of days on which races were conducted on that race track during the race meeting, together with a statement of its daily mutuel handle for each such day during the said meeting, and at the same time pay to the state the tentatively correct amount of the license tax apparently due it pursuant to KRS 137.170.

(2) On or before December 31 in each year each [~~such~~] person ***engaged in the business of conducting a race track*** shall file a final report with the Revenue Cabinet giving in summary form a recapitulation of the information furnished by the previous tentative reports filed during the year, computing the final license tax due the state for the year ending November 30 and showing the amount of license tax actually paid during ***the*** [~~such~~] year. Any balance of license tax due the state as shown on ***the*** [~~said~~] final report shall be paid at the same time as the filing thereof. Any overpayment in license tax disclosed by ***the*** [~~said~~] final report shall, at the option of the taxpayer, be promptly refunded by the state or credited against the license tax to be due from the taxpayer in the following year.

(3) Any person who fails to pay the tax due in the time specified shall pay a penalty equal to twenty percent (20%) of the amount of tax due and delinquent, together with interest at ***the tax interest rate as defined in KRS 131.010(6)*** [~~six percent (6%) per annum on both the original tax and the penalty~~].

Section 4. KRS 138.4631 is amended to read as follows:

(1) If any holder of a permit under KRS 138.463(2) fails or refuses to file a return or furnish any information requested in writing, the cabinet may, from any information in its possession, make an estimate of the permit holder's gross rental or lease charges and issue an assessment against ***the*** [~~such~~] permit holder based on the estimated gross rental or lease charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.

(2) If any holder of a permit under KRS 138.463(2) fails to make and file a return required by KRS 138.463 on or before the due date of the return or the due date as extended by the cabinet, then, unless it is shown to the satisfaction of the cabinet that the failure is due to a reasonable cause, five percent (5%) of the tax found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars ($10).

(3) If the tax imposed by KRS 138.463, whether assessed by the cabinet or the permit holder, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of twelve percent (12%) per annum~~] from the date prescribed for its payment until payment is actually made.

Section 5. KRS 139.610 is amended to read as follows:

(1) The cabinet shall upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of eight percent (8%) per annum~~] from the date on which the tax would otherwise have been due.

Section 6. KRS 140.210 is amended to read as follows:

(1) All taxes imposed by this chapter, unless otherwise provided in this chapter, shall be due and payable to the Revenue Cabinet at the death of the decedent. If they are paid within nine (9) months a discount of five percent (5%) shall be allowed, and if they are paid within eighteen (18) months no interest shall be charged and collected thereon. If the taxes due are not paid within eighteen (18) months, a penalty of ten percent (10%) per annum shall be charged and collected from the time the taxes accrued, except in cases where, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of the decedent or a part thereof cannot be settled at the end of eighteen (18) months from the death of the decedent. In such cases ***interest at the tax interest rate as defined in KRS 131.010(6)*** [~~only eight percent (8%) per annum~~] shall be charged upon the tax from the expiration of ***the*** [~~said~~] eighteen (18) months until the cause of the delay is removed.

(2) In all cases where the personal representatives or trustees do not pay the taxes within eighteen (18) months from the death of the decedent, they shall be required to give bond in the form and to the effect prescribed by the cabinet, for the payment of the taxes and interest.

Section 7. KRS 140.320 is amended to read as follows:

In the event a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value shall cause to be paid, pursuant to regulations issued by the Revenue Cabinet, the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest on the unpaid tax at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of eight percent (8%) per annum~~].

Section 8. KRS 143A.110 is amended to read as follows:

In every case, any tax not paid on or before the due date shall bear interest at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of ten percent (10%) per annum~~] from the date due until the date of payment.

Section 9. KRS 234.420 is amended to read as follows:

(1) If any liquefied petroleum gas motor fuel dealer neglects or refuses to make the return required by KRS 234.370 or to pay the tax at the time provided, a penalty of twenty percent (20%) thereof and interest at ***tax interest rate as defined in KRS 131.010(6)*** [~~six percent (6%) per annum~~] from the date when due shall be paid as a part of the tax. If collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060.

(2) If any taxpayer subject to the penalty provided in subsection (1) of this section submits in writing to the cabinet his reasons for failure to comply with KRS 234.370, and if the cabinet finds the reasons evidence of justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty exacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to a one percent (1%) penalty if the violation is the first violation by the taxpayer within twelve (12) months.

(3) Any liquefied petroleum gas motor fuel dealer who fails to make any return required under KRS 234.370 within the time required shall pay a penalty of ten dollars ($10.00) to be assessed and collected in the manner provided for the assessment and collection of taxes under KRS 234.310 to 234.440 or in a civil action initiated by the cabinet. In addition such delinquent taxpayer may be compelled to make the required report or return.

SECTION 10. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Mobile homes not held for resale by a dealer shall be classified as real property for the purpose of the levy and assessment of ad valorem taxes, regardless of whether or not the wheels or mobile parts have been removed and whether or not the unit rests on a permanent, fixed foundation.

(2) Recreational vehicles shall be classified as real property if the wheels or mobile parts have been removed and the unit rests on a permanent, fixed foundation.

Section 11. KRS 132.720 is amended to read as follows:

As used in KRS 132.260 and 132.720 to ***Section 10 of this Act*** [~~132.750~~], unless the context otherwise requires:

(1) ***"Mobile home," "recreational vehicle,"*** "mobile home park" and "recreational vehicle park" have the same meanings as in KRS 219.320.

(2) "Unit" means any single mobile home or recreational vehicle.

(3) "Permanent, fixed foundation" means a foundation permanent in nature which is so constructed as to be fixed upon the surface of the land.

Section 12. KRS 132.730 is amended to read as follows:

All mobile homes and recreational vehicles which are within this state on January 1 each year shall be subject to all ad valorem tax levies applicable to other [~~tangible personal~~] property subject to full state and local rates, except that any mobile home and recreational vehicle not licensed in this state and not remaining within this state for a period of more than ninety (90) days in any twelve (12) month period shall not have a taxable situs in this state unless an occupant is employed in this state.

Section 13. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the Revenue Cabinet. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by the railroad retirement system on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification through December 31 of the year in which application is made.

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying said unit, but the $6,500 exemption shall be construed to mean $6,500 in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one (1) per cent, the maximum exemption shall be adjusted accordingly.

(f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A mobile home ***or*** [~~,~~] recreational vehicle, ***when classified as real property as provided for in Section 10 of this Act,*** or ***a*** manufactured house may qualify as a residential unit for purposes of the homestead exemption provision [~~provided the unit is classified as real property as defined in KRS 132.750~~].

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city or special district purposes.

(4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.

(a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification or at the end of the taxation period for which the homestead exemption has been granted .

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

Section 14. KRS 133.230 is amended to read as follows:

Upon receipt of a certification of omitted property by the property valuation administrator or by the Revenue Cabinet, the county clerk shall make out for the use of the sheriff or collector a tax bill for each taxpayer who owes omitted taxes. The omitted tax bills shall be attested by the clerk in the same manner as the tax bills described in KRS 133.220. The clerk shall deliver the omitted tax bill to the sheriff or collector as soon as the omitted [~~poll or~~] property has been finally assessed.

Section 15. KRS 136.020 is amended to read as follows:

[~~(1)~~] The property of all corporations, except where otherwise provided by law, shall be assessed in the name of the corporation in the same manner as that of a natural person, except that, when legally called on, the chief officer shall report a full statement of the property of the corporation for taxation, and, for a failure, shall be subject to the penalties provided by law for a similar failure by a natural person in listing his property.

[~~(2) Each county clerk shall furnish to the Revenue Cabinet, on blanks provided by the cabinet, a statement of the assessed value of the tangible property of all corporations paying a franchise or other tax under this chapter.~~]

Section 16. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to regulations which shall be promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the Revenue Cabinet, on such forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any such moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. ***Insurers with an annual liability***

of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Revenue Cabinet all such premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from such premium surcharge, except as provided in subsection (2) of this section, shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the volunteer fire department aid fund as provided in KRS 17.250; provided however, that insurance premium surcharge funds collected from the policyholders of any mutual company, cooperative or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1986, shall continue to be paid into the professional fire fighters foundation program fund and the law enforcement foundation program fund as prescribed herein.

(3) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in subsection (1) of this section shall be paid by the State Treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the law enforcement foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500. Money deposited to the professional fire fighters foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300.

Section 17. KRS 140.320 is amended to read as follows:

If, within five (5) years after the death of the decedent, [~~In the event~~] a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value ***was reported*** shall cause to be paid, pursuant to regulations issued by the Revenue Cabinet, the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest on the unpaid tax at the rate of eight percent (8%) per annum.

Section 18. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth (10th) of the month, ten dollars ($10) from each fourteen dollars ($14) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the ***Revenue*** Cabinet. The Cabinet ***for Human Resources*** shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 19. KRS 304.11-050 is amended to read as follows:

(1) Effective with all premiums collected during the calendar year 1968, except premiums on lawfully procured surplus lines insurance, every unauthorized insurer shall pay to the ***secretary of revenue*** [~~commissioner~~] before March 1, next succeeding the calendar year in which the insurance was so effectuated, continued, or renewed, a premium tax of two percent (2%) of gross premiums charged for such insurance on subjects resident, located, or to be performed in this state. Such insurance whether procured through negotiation or an application, in whole or in part occurring or made within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured or continued in this state. The term "premium" includes all premiums, membership fees, assessments, dues, and any other consideration for insurance. If the tax prescribed by this section is not paid within the time stated, the tax shall be increased by a penalty of twenty-five percent (25%) and by the amount of an additional penalty computed at the rate of one percent (1%) per month or any part thereof from the date such payment was due to the date paid.

(2) If the policy covers risks or exposures only partly in the state, the tax payable shall be computed on the portions of the premium which are properly allocable to the risks or exposures located in the state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as taxable premiums to any other state or states.

(3) Proration of premium taxes due from an industrial insured under a contract procured from an unauthorized insurer having property in states other than Kentucky, shall be determined by rules and regulations promulgated by the ***secretary of revenue*** [~~commissioner~~] using the following criteria where applicable:

(a) Percentage of physical assets in Kentucky;

(b) Percentage of employee payroll in Kentucky;

(c) Percentage of sales in Kentucky; and

(d) Percentage of taxable income reportable in Kentucky.

(4) The ***secretary of revenue, or the*** Attorney General[~~,~~] upon request of the ***secretary of revenue*** [~~commissioner~~], shall proceed in the courts of this state or any other state or in any federal court or agency to recover such tax not paid within the time prescribed in this section.

Section 20. KRS 136.990 is amended to read as follows:

(1) [~~Any county clerk who fails to comply with the provisions of subsection (2) of KRS 136.020 shall be fined not less than ten dollars ($10) nor more than twenty-five dollars ($25).~~

~~(2)~~] Any corporation that fails to pay its taxes, penalty and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(2)[~~(3)~~] Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after March 31 of each year.

(3)[~~(4)~~] Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(4)[~~(5)~~] Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(5)[~~(6)~~] Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

(6)[~~(7)~~] Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(7)[~~(8)~~] Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

(8)[~~(9)~~] The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections ***(4) to (6)*** [~~(5) to (7)~~] of this section.

(9)[~~(10)~~] If any taxpayer fails to make or file a return as required by KRS 136.090 on or before the due date of the return, then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the cabinet shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, that in no case shall a penalty be less than ten dollars ($10).

(10)[~~(11)~~] If the tax imposed by KRS 136.070, whether assessed by the cabinet or the taxpayer, or any instalment or portion of the tax, is not paid on or before the date prescribed for its payment, it shall be collected as a part of the tax, interest upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the cabinet.

Section 21. The following KRS sections are repealed:

132.750 When mobile home or recreational vehicle classified as real estate.

Section 22. The provisions of Sections 1 to 9 of this Act shall become effective on August 1, 1990.

The Committee Amendment No. 1 to **HB 157** is as follows:

Amend printed copy of **HB 157** on page 24, after line 5, by adding the following language:

"Section 23. KRS 138.510 is amended to read as follows:

(1) Through June 30, 1990, an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky state racing commission at which betting is conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to four and three-fourths percent (4 3/4%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until June 30, 1990, tracks with a daily average handle of less than one million two hundred thousand dollars ($1,200,000) shall receive a tax credit amounting to three percent (3%) of money wagered, with one and one-half percent (1.5%) to be allocated to purses, one percent (1%) to capital improvement and one-half percent (.5%) for administration. From July 15, 1986 until June 30, 1990, tracks with a daily average handle of one million two hundred thousand dollars ($1,200,000) or more shall receive a tax credit amounting to one percent (1%) of money wagered, to be allocated to purses. All money from the tax credit allocated to purses shall be in addition to purse money allocated by contractual agreement or by regulation of the commission. All expenditures of tax credit money shall be reported to and approved by the commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the legislative research commission. An amount equal to three-quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax and deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From July 13, 1984, until September 15, 1988, any track with a daily average handle of less than one million two hundred thousand dollars ($1,200,000), which experienced an overlap of its racing dates in 1983 with another thoroughbred track, shall be exempt from payment of the tax levied under this subsection, with exception of the amount to be paid to the thoroughbred development fund, and the license tax levied in KRS 137.170, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated in the same manner as the tax credit is allocated.

(2) Through June 30, 1990 an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky harness racing commission at which betting is conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. An amount equal to one percent (1%) of all pari-mutuel wagering on racing under the jurisdiction of the Kentucky harness racing commission shall be deducted from the tax and set aside by the revenue cabinet and shall be deposited in the Kentucky standardbred, quarter horse, appaloosa and arabian development fund created and described in KRS 230.770. From July 15, 1982, until June 30, 1990, associations conducting a race meet under the jurisdiction of the Kentucky harness racing commission with a daily average handle of less than three hundred thousand dollars ($300,000) shall receive a tax credit of three percent (3%) of all money wagered, two percent (2%) to be allocated to the associations for capital improvements, promotions, including advertising, or purses, as the association shall elect and three-quarters of one percent (3/4 of 1%) to be allocated to overnight purses and one-quarter of one percent (1/4 of 1%) to be allocated to the Kentucky standardbred, quarter horse, appaloosa and arabian development fund. Said expenditures shall be reported to and approved by the harness racing commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the legislative research commission. From July 13, 1986, until September 15, 1988, any association with a daily average handle of less than three hundred thousand dollars ($300,000), which experienced an overlap of racing dates in 1983 with a thoroughbred track within fifty (50) miles, shall be exempt from payment of the tax levied in this subsection, with exception of the amount to be paid to the standardbred, quarter horse, appaloosa and arabian development fund, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated fifty percent (50%) to purses and fifty percent (50%) to the association.

(3) Effective July 1, 1990, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky state racing commission and the Kentucky harness racing commission. For tracks with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3 1/2%) of all money wagered during the fiscal year. For tracks with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1 1/2%) of all money wagered during the fiscal year. For the purposes of this subsection and subsections (1) and (2) of this section, the daily average handle shall be computed from the amount wagered only at the host track and shall not include money wagered at a receiving track. Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the same amount and same manner as provided for in subsections (1) and (2) of this section.

(4) An excise tax is imposed on all tracks not conducting pari-mutuel racing but participating as receiving tracks in intertrack wagering under the jurisdictions of the Kentucky state racing commission and the Kentucky

harness racing commission. From July 15, 1988 until June 30, 1990, the tax shall be in the amount of five percent (5%) of all money wagered during the fiscal year. After June 30, 1990, the tax shall be in the amount of three percent (3%) of all money wagered during the fiscal year. After June 30, 1990 an amount equal to two percent (2%) of the amount wagered and deducted from the tax imposed in this subsection shall be deposited in the thoroughbred development fund if the receiving track is under the jurisdiction of the Kentucky state racing commission, or the Kentucky standardbred, quarter horse, appaloosa and arabian development fund, if the receiving track is under the jurisdiction of the Kentucky harness racing commission.

(5) Two-tenths of one percent (.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2) and (3) of this section and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) For all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky state racing commission and the Kentucky harness racing commission participating in simulcasting, the host track as defined in KRS 230.376(4) shall remit those taxes levied under the provisions of this Section to the Revenue Cabinet on behalf of both the host track and the receiving track as defined in KRS 230.376(5). The host track shall also be subject to any interest and penalties imposed by the cabinet relating to remittance of these taxes."

The Committee Amendment No. 2 to **HB 157** is as follows:

Amend printed copy of **HB 157** on page 24, after line 5, by adding the following language:

"Section 23. KRS 138.530 is amended to read as follows:

(1) The Revenue Cabinet shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made to the Revenue Cabinet ***no later than thirty (30) days*** [~~the next business day~~] following ***the conclusion of*** [~~each day of racing, during~~] each race meeting and ***shall be*** accompanied by such reports as prescribed by said cabinet. All such funds received by the Revenue Cabinet shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky state racing commission shall ***no later than thirty (30) days following the conclusion of*** [~~daily, during~~] each race meeting, report to the Revenue Cabinet the total amount bet or handled ***during the meet*** [~~the preceding day~~] and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky state racing commission or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any."

The Committee on Counties and Special Districts reported **HB 4** and **HB 12** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to property valuation administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.380 is amended to read as follows:

(1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the revenue cabinet, showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance. The examinations shall be both written and oral and formulated so as to test fairly

the ability and fitness of the applicant to serve as property valuation administrator. The revenue cabinet shall hold such examinations in at least one (1) place in each congressional district during the month of ***October of each year immediately preceding*** [~~February of~~] each year in which property valuation administrators are to be elected. The revenue cabinet shall advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before such examination is given. Any person desiring to take such examination shall appear at the time and place designated.

(2) If, after the giving of the examination, as provided in subsection (1), there is only one (1) person qualified to be a candidate in the county, the revenue cabinet shall hold a second examination prior to the filing date in each congressional district where necessary. Applicants from only those counties having not more than one (1) person qualified shall be eligible to take the examination. Notice of the second examination shall be posted in the manner provided in subsection (1).

(3) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the revenue cabinet may hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Special examinations shall be held in the same manner as regular examinations.

(4) Examinations shall be given and graded in accordance with rules of the cabinet published to the applicant at the time of the examination. Within thirty (30) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the revenue cabinet to each person passing the examination.

(5) Examination records shall be preserved by the cabinet for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the revenue cabinet in Frankfort, Kentucky.

HB 12, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective August 1, 1988, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two ***and two-tenths percent (2.2%)*** [~~percent (2%)~~] for the County Employees Retirement System and one and ninety-one hundredths percent (1.91%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, provided such member pays to the Kentucky employees retirement system thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of such computed actuarial cost shall be paid from the state treasury to the Kentucky employees retirement system upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employees retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member ***of the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, or of the Kentucky Employees Retirement System member*** who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education may count such vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. Such credit from a Kentucky institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of teachers' retirement system credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 78.610 is amended to read as follows:

(1) Each employee shall, commencing on August 1, ***1990*** [~~1986~~], contribute for each pay period, for which he receives compensation ***five percent (5%)*** [~~four and twenty-five hundredths percent (4.25%)~~] of his creditable compensation. Any other provisions of KRS 78.510 to 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute ***five percent (5%)*** [~~four and twenty-five hundredths percent (4.25%)~~] of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system, including the assumed creditable compensation of fire fighters employed by a district created pursuant to KRS 75.010, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employee contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). These contributions shall not be included as gross income of the employee until [~~such time as~~] the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982. Employee contributions of volunteer fire fighters based upon an assumed salary pursuant to KRS 78.510(13) shall not be picked up by the employer.

Section 3. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852 a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service, may elect to receive an annual retirement allowance payable monthly or less frequently as determined by the board which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or

(d) The member ***of the Kentucky Employees Retirement System*** has thirty (30) or more years of service at least fifteen (15) of which are current service***, or the member of the County Employees Retirement System has twenty-seven (27) or more years of service at least fifteen (15) of which are current service***; or

(e) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

The Committee on Labor and Industry reported **HB 93** and **HB 152**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 93, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.055 is amended to read as follows:

Unless the employing unit thereof has elected that ***the*** [~~such~~] services become covered employment under the provisions of subsection (3) or (4) of KRS 341.250, "covered employment" shall not include:

(1) Service performed in agricultural labor, as defined in section 3306(k) of the Internal Revenue Code, but only if ***the*** [~~such~~] service is not defined as "covered employment" in paragraphs (f) and (h) of subsection (1) of KRS 341.050; or agricultural service performed prior to January 1, 1980, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

(2) Domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority, but only if ***the*** [~~such~~] service is not defined as "covered employment" in paragraphs (g) and (h) of subsection (1) of KRS 341.050;

(3) Service in the employ of an organization described in paragraph (e) of subsection (1) of KRS 341.050, but only if ***the*** [~~such~~] service is not defined as "covered employment" in paragraphs (e) and (h) of subsection (1) of KRS 341.050;

(4) Certain service performed in the employ of this state or any of its political subdivisions, municipalities or instrumentalities thereof, but only if ***the*** [~~such~~] service is performed by an individual in the exercise of his or her duties:

(a) As a public elected official;

(b) As a member of a legislative body of this state or a political subdivision thereof;

(c) As a member of the judiciary of this state or political subdivision thereof;

(d) As a member of the state national guard or air national guard;

(e) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; ***or***

(f) In a position which, under or pursuant to the state law is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week or by reason of service on any appointed state or local board or commission; [~~or~~

~~(g) As a part-time staff employee of the general assembly, or any temporary, part-time or seasonal employee of the Commonwealth or political subdivision thereof, if not required to be covered employment pursuant to section 3309 of the Internal Revenue Code, as amended, as a requirement of section 3304 of that code, as amended, for approval of the state's unemployment insurance law;~~]

(5) Except as provided in paragraph (d) of subsection (1) of KRS 341.050, service performed in the employ of any other state or any political subdivision thereof, or of the United States government or an instrumentality of the United States exempt by federal law from the contributions imposed by this chapter, except that to the extent that the Congress of the United States shall permit states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment insurance law, all the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under section 3304 of the Internal Revenue Code, the payments required of such instrumentalities, with respect to such year, shall be refunded from the fund in the same manner and within the same period as is provided in KRS 341.330 with respect to contributions erroneously collected;

(6) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress. The secretary may enter into agreements with the proper agencies under such act of Congress to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this chapter;

(7) Service performed by a worker in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(8) Service performed in the employ of a foreign government*,* [~~(~~]including service as a consular, or other officer or employee, or a nondiplomatic representative[~~)~~], or of an instrumentality wholly owned by a foreign government if:

(a) The service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

(b) The secretary finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

(9) Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this state; and service performed as an intern in the employ of a hospital by a worker who has completed a four (4) years' course in a medical school chartered or approved pursuant to the laws of this state;

(10) Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(11) Service performed by a worker under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) Service not in the course of the employing unit's trade or business performed in any calendar quarter by a worker, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purpose of this subsection, an individual shall be deemed to be regularly employed by an employing unit during a calendar quarter only if:

(a) On each of some twenty-four (24) days during ***the*** [~~such~~] quarter, ***the*** [~~such~~] individual performs for such employing unit for some portion of the day service not in the course of the employing unit's trade or business; or

(b) ***The*** [~~Such~~] individual was regularly employed, [~~(~~]as determined under paragraph (a) of this subsection,[~~)~~] by ***the*** [~~such~~] employing unit in the performance of ***the*** [~~such~~] service during the preceding calendar quarter;

(13) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code, [~~(~~]other than an organization described in section 401(a)[~~)~~], or under section 521 of the Internal Revenue Code, if the remuneration for ***the*** [~~such~~] service is less than fifty dollars ($50);

(14) Service performed in the employ of an international organization;

(15) Service covered by an election, duly approved by the agency charged with the administration of any other state or federal employment security law, in accordance with an arrangement pursuant to KRS 341.145 during the effective period of ***the*** [~~such~~] election;

(16) Service performed in the employ of a school, college, or university, if ***the*** [~~such~~] service is performed:

(a) By a student who is enrolled and is regularly attending classes at ***the*** [~~such~~] school, college or university; or

(b) By the spouse of such a student, if ***the*** [~~such~~] spouse is advised, at the time ***the*** [~~such~~] spouse commences to perform ***the*** [~~such~~] service, that:

1. The employment of ***the*** [~~such~~] spouse to perform ***the*** [~~such~~] service is provided under a program to provide financial assistance to ***the*** [~~such~~] student by ***the*** [~~such~~] school, college, or university; and

2. ***The*** [~~Such~~] employment will not be covered by any program of unemployment insurance;

(17) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if ***the*** [~~such~~] service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(18) Service performed in the employ of a hospital, if ***the*** [~~such~~] service is performed by a patient of the hospital, as defined in KRS 341.067;

(19) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by ***the*** [~~such~~] order; or

(20) Service defined in KRS 341.050(1)(d) and (e) performed for a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury, or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving ***the*** [~~such~~] rehabilitation or remunerative work; or as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving ***the*** [~~such~~] work relief or work training; or in a custodial or penal institution by an inmate of such institution.

Section 2. KRS 341.090 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of a worker's benefit year.

(2) "Benefit year" for any worker means the fifty-two (52) week period beginning with the first day of the week with respect to which he first requests a determination which establishes his status as a fully insured worker after the termination of his last preceding benefit year, if any, except that the last preceding

benefit year shall be a fifty-three (53) week period if fifty-two (52) weeks would result in the overlapping of any calendar quarter of the base period of the new benefit year with the same calendar quarter of the base period of the previous benefit year. As used in this subsection, a worker shall be considered as having insured status, without regard to any other provision of this chapter, if at the time of his request he has satisfied the conditions required under subsection (5) of KRS 341.350.

(3) "Base-period wages" means the wages paid to a worker during his base period by subject employers for covered employment. The secretary [~~shall~~], upon request of ***the*** employee, with respect to this subsection, ***shall*** consider wages payable to mean wages paid[~~, if necessary to make the employee meet the earnings requirement in KRS 341.350~~] in order to prevent inequities ***caused by employer failure to meet a regularly scheduled payday. Lump sum payments deemed to be wages under this chapter shall be reallocated to periods covered by the payments*** [~~in particular cases~~].

Section 3. KRS 341.190 is amended to read as follows:

(1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary for human resources considers necessary for the proper administration of this chapter. ***The*** [~~Such~~] records shall be open for inspection and subject to being copied by the secretary or his authorized representatives at any reasonable time and as often as necessary.

(2) The secretary for human resources may require any employing unit to furnish to the department at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary for human resources considers necessary to the effective administration of this chapter.

(3) ***Information obtained from an employing unit or individual and other records made by the cabinet in the administration of this chapter are confidential and*** [~~All letters, reports, communications, and other matters, written or oral, from employer or worker, to the secretary for human resources or any of his agents, representatives, or employes, or to the commission, or to any board or official functioning under this chapter, which have been written, sent, or made in connection with the requirements and administration of this chapter, shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no employer or employe, or his representative, testifying before the commission, the secretary for human resources or any duly authorized representative thereof, shall be exempt from punishment for perjury. Information thus obtained~~] shall not be published or be open for public inspection except ***as provided below:***

(a) Information may be made available to public employees in the performance of their duties, ***but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released*** [~~in any manner revealing or indicating the employing unit's identity, but any claimant at a hearing before the commission, the secretary for human resources or his duly authorized representative, shall be supplied with information from such records to the extent necessary for the proper presentation of his claim~~].

(b) A claimant or employing unit or his legal representative shall be provided upon request information or records maintained by the cabinet in the administration of his claim, or his reserve account, or any proceeding under this chapter to which he is a party.

(c) Statistical information derived from information and records obtained or made by the cabinet may be published, if it in no way reveals the identity of any claimant or employing unit.

(d) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information or records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

(4) No information or records held confidential under subsection (3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary or any duly authorized representative thereof, shall be exempt from punishment for perjury.

Section 4. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work [~~to return to work with his usual employer or to avoid imminent layoff (of which he has been given notice by his employer) by accepting other work, or for leaving work~~] which was concurrent with his most recent work, [~~or for leaving part-time work which preceded his most recent suitable work to accept such most recent suitable work~~] or for leaving work which is one hundred (100) road miles or more, as measured on a one-way basis, from his home to accept work which is less than one hundred (100) road miles from his home ***or for otherwise accepting*** [~~provided the~~] work ***which*** is a bona fide job offer with a reasonable expectation of continued employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for ***the*** [~~such~~] additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the Cabinet for Human Resources and the worker in writing of the alleged voluntary quitting or the discharge for misconduct.[~~; provided, however, that~~] Nothing in this subsection shall restrict the right of the secretary [~~for human resources~~] to disqualify a worker whose employer has refused or failed to notify the Cabinet for Human Resources of the alleged voluntary quitting or discharge for misconduct, if ***the*** [~~such~~] alleged voluntary quitting or discharge for misconduct is known to the secretary [~~for human resources~~] prior to the time benefits are paid to ***the*** [~~such~~] worker.[~~; provided, further, that~~] The exercise of ***the*** [~~such~~] right by the secretary [~~for human resources~~], in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding ***the*** [~~such~~] week of unemployment was seasonal, intermittent or temporary in nature, most recent work may be construed as that work last preceding ***the*** [~~such~~] seasonal, intermittent or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until ***the*** [~~such~~] worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

HB 152, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some person other than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against such other person to recover damages, or proceed both against the employer for compensation and such other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against such other person to recover damages, he shall give due and timely ***written*** notice to the employer ***and its insurance carrier*** of the filing of such action. ***The injured employee shall also give due and timely written notice of the civil action to the special fund and uninsured employer's fund in the event either or both have been or will be parties to the employee's workers' compensation action.*** If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employe, less the employe's legal fees and expense.

(2) A principal contractor, intermediate or subcontractor shall be liable for compensation to any employee injured while in the employ of any one of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate or subcontractor who pays such compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but such proceedings shall not constitute a waiver of the employe's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall such claim be barred by limitations, provided such claim is filed against the principal or intermediate contractor within one year after a final unappealed order has been rendered by an administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

The Committee Amendment No. 1 to **HB 152** is as follows:

Amend printed copy of **HB 152** on page 1, line 13, by deleting "***and its insurance***";

On page 1, line 14, by deleting "***carrier***".

The Committee on Labor and Industry reported **HB 147, HB 149, HB 150** and **HB 151**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 147, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.0012 is amended to read as follows:

(1) There is hereby created the Kentucky workers' compensation advisory council which shall consist of sixteen (16) members appointed by the Governor. Each member shall serve for a term of four (4) years and until his successor has been appointed and has qualified.

(2) Vacancies shall be filled by appointment of the Governor for the unexpired term of the member whose office is vacant and shall be made within sixty (60) days of the occurrence of the vacancy.

(3) Annually, the ***members of the council shall elect co-chairmen. One co-chairman shall be elected by the members of the council representing labor and the other co-chairman shall be elected by the members representing management*** [~~Governor shall designate one of the members to serve as chairman of the council~~]. A majority of the members of the council shall constitute a quorum for the transaction of business.

(4) The council shall meet at least quarterly and on other occasions as may be necessary, on the call of the ***co-chairmen*** [~~chairman~~] or a majority of the members.

(5) The council shall be attached to the Labor Cabinet for administrative purposes, and the secretary of labor shall supply necessary staff and supplies to the council.

(6) The principal office of the council shall be located in Frankfort, Kentucky, but meetings of the council may be held at any location in the Commonwealth of Kentucky.

(7) In making appointments to the council, the Governor shall appoint eight (8) members representing labor and eight (8) members representing management.

(8) The council shall not infringe upon or assume the duties of the Labor Cabinet, Cabinet for Economic Development or the Department of Insurance. The council shall serve in an advisory capacity and shall make recommendations to the Governor and the legislature on all matters relating to workers' compensation including, but not limited to: efficient administration; coverage of employers and employees; adequacy and delivery of the benefit structure; insurance and self-insurance; medical cost containment and medical services; rehabilitation; liability and financing of the special fund; attorney fees; and lump-sum compensation and settlement procedures. In addition, the council may recommend legislation and administrative regulations as it deems necessary.

HB 149, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.120 is amended to read as follows:

(1) There is created the division of the special fund in the department of workplace standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The division of special fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may ***name the special fund as a party*** in the original application for benefits, or either party ***shall***[~~may~~] by motion ***not later than forty-five (45) days prior to the first scheduled pre-hearing conference, unless there is a showing of good cause,*** [~~while the case is pending, accompanied by proper allegations and by certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant,~~] request the administrative law judge to and the administrative law judge shall, [~~or upon his own motion the administrative law judge may, at any time before the rendition of the final award,~~] cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employee is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employee is found to have a dormant nondisabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3) ***All motions to join the special fund shall include proper allegations demonstrating the basis for joinder and certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant.***

(4) Failure to move for joinder of the special fund within the time limit prescribed by this section, without a showing of good cause, shall bar any recovery against the special fund.

(5) When the special fund has been made a party the administrative law judge may direct the procedures provided in KRS 342.121.

(6)[~~(4)~~] If it is found that the employee is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employee is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the administrative law judge which is equal to the percentage of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(7)[~~(5)~~] The remaining compensation for which such resulting condition would entitle the employee, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employee under such regulations as the secretary of finance and administration may provide for such purpose.

(8)[~~(6)~~] In making the computation for the apportionment of benefits under this section, the administrative law judge shall determine the amount of the employee's weekly income benefits and apportion the award between the employer and special fund as follows:

(a) For benefits awarded under KRS 342.730(1)(b), the portions shall be based on the number of weeks stated therein;

(b) For all other benefits awarded under this chapter, except retraining incentive benefits awarded pursuant to KRS 342.732, the portions shall be based on the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. decennial life tables. If the most recent edition of the U.S. decennial life tables includes Kentucky tables, these tables shall be used. If it does not, the national tables shall be used.

HB 150, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.1202 is amended to read as follows:

An award for income benefits for ***permanent*** total or ***permanent*** partial disability under this chapter based, in whole or in part, on a pre-existing disease or pre-existing condition of the back, or of the heart shall be apportioned, by the administrative law judge, fifty percent (50%) to the employer and fifty percent (50%) to the special fund. Apportionment required by this section shall not be a cause of appeal.

HB 151, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.265 is amended to read as follows:

If the employee and employer ***and special fund or any of them*** reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement shall be filed with the administrative law judge, and, if approved by him, shall be enforceable as provided in KRS 342.305. ***In all cases where all parties have not joined in the settlement agreement, the administrative law judge shall not approve the agreement unless the agreement certifies that the party not participating in the settlement has received a copy of the settlement agreement, at least five (5) days prior to submission of the agreement for approval.*** Nothing herein shall prevent the voluntary payment of compensation in the amounts and for the periods prescribed in this chapter without formal agreement, but nothing shall operate as a final settlement except a memorandum of agreement filed with the administrative law judge and approved by the administrative law judge in accordance with this section. No limitations of time shall begin to run until the date upon which the agreement is filed with and approved by the administrative law judge.

The Committee Amendment No. 1 to **HB 151** is as follows:

Amend printed copy of **HB 151** on page 1, line 12, by deleting "***five (5)***" and by inserting in lieu thereof "***ten (10)***".

Calendar

HB 66, HB 20, HB 64, HB 120, HB 2, HB 7, HB 159, HR 18 and **HB 87** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 18 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 18** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 10, 1990 roll call on **HB 18** - Appendix.)

HB 18 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 18** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 89 taken from the Orders of the Day and ordered read at length for the third time. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 89** be passed.

On the roll call the vote was: Yeas 81, Nays 11. (See January 10, 1990 roll call on **HB 89** - Appendix.)

HB 89 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 89** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 9, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Substitute to **HB 9**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 9**. Agreed.

Representative Callahan moved that **HB 9**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 5. (See January 10, 1990 roll call on **HB 9** - Appendix.)

HB 9, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 9**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Recess

Representative Stumbo moved that the House recess for five minutes for a Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on Rules reported **HB 7**, **HB 64**, **HB 66**, **HB 159** and **HR 18** have been posted for passage in Orders of the Day, January 11, 1990.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 3**

Natural Resources and Environmental Protection: **HB 87**

Judiciary: **HB 120**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Labor and Industry: **HB 76**

Transportation: **HB 57**, **HB 204**, **HJR 19**

Education: **HB 43**, **HB 88**, **HB 138**

Introduction of Bills

HB 270, by Representative Heleringer: AN ACT relating to the flag of the United States.

HB 271, by Representative Ackerson: AN ACT relating to witnesses.

HB 272, by Representatives Richards, Lewis, Ridley, Butler, B. R. Smith, Curd, A. Jones, Altman, Reinhardt, Kerr, Priddy, Callahan, Hourigan, Nett, K. Harper, Castleman, Bruce, Morris and Turner: AN ACT relating to forfeiture and seized property and declaring an emergency.

HB 273, by Representative Morris: AN ACT relating to state government.

HB 274, by Representative Stumbo: AN ACT relating to reorganization.

HB 275, by Representative Stumbo: AN ACT relating to reorganization.

HB 276, by Representative Stumbo: AN ACT relating to motor vehicle operators.

HB 277, by Representative Stumbo: AN ACT relating to reorganization.

HB 278, by Representative Stumbo: AN ACT relating to reorganization.

HB 279, by Representative Stumbo: AN ACT relating to reorganization.

HB 280, by Representative Stumbo: AN ACT relating to reorganization.

HB 281, by Representative Stumbo: AN ACT relating to reorganization.

HB 282, by Representative Stumbo: AN ACT relating to reorganization.

HB 283, by Representative Stumbo: AN ACT relating to the Kentucky Educational Savings Plan Trust.

HB 284, by Representative Stumbo: AN ACT relating to reorganization.

HB 285, by Representative Ridley: AN ACT relating to underground coal mining.

HB 286, by Representatives Lewis, Castleman, Zimmerman, Ridley, Curd, Geveden, Hancock, Blevins, Morris and Cyrus: AN ACT relating to hazardous positions.

HB 287, by Representative Kerr: AN ACT relating to crimes and punishments.

HB 288, by Representatives Mason, Bentley, White and Cyrus: AN ACT relating to coal mining.

Representative Lear moved that **HB 269** be withdrawn. Agreed.

Announcements

The Clerk announced the following meetings:

The Committee on Judiciary will meet at 9:00 a.m., Thursday, January 11, 1990.

The Committee on Health and Welfare will meet at 1:30 p.m., Tuesday, January 16, 1990.

The Committee on Banking and Insurance will meet at 1:00 p.m., Thursday, January 11, 1990.

The Clerk announced the cancellation of the following meetings:

Committee on Transportation

Committee on Education

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 11, 1990.

On the roll call the vote was yeas 90—Ackerson, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Zimmerman. Nays 2—LeMaster and Lile.

The motion to adjourn was adopted.

THURSDAY, JANUARY 11, 1990

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Donnermeyer and Walker.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 10, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 6**, **SB 8**, **SB 44**, **SB 46**, **SB 64**, **SCR 4** and **SCR 5**.

Introduction of Bills and Resolutions

HB 289, by Representative Castleman: AN ACT relating to hunting and fishing.

HB 290, by Representatives Adkins, Cyrus, Siler, A. Jones, Barrows, Noe, Jackson, Strong, R. Smith, Little: AN ACT relating to labor-management relations and making an appropriation therefor.

HR 34, by Representative Blevins: A RESOLUTION applauding the evolving democratic principles of Poland.

HR 35, by Representative Blevins: A RESOLUTION applauding the evolving democratic principles of the German Democratic Republic.

HR 36, by Representative Blevins: A RESOLUTION applauding the evolving democratic principles of Romania.

HR 37, by Representative Blevins: A RESOLUTION congratulating the new Panamanian government.

HR 38, by Representative Blevins: A RESOLUTION applauding the evolving democratic principles of Bulgaria.

HR 39, by Representative Blevins: A RESOLUTION applauding the evolving democratic principles of Czechoslovakia.

HR 40, by Representative Blevins: A RESOLUTION applauding the evolving democratic principles of Hungary.

Representative K. Harper moved that the rules be suspended to allow floor privileges to Jack Wills. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 286**

Banking and Insurance: **HB 267**, **HB 268**

Energy: **HB 265**

Judiciary: **HB 271**, **HB 272**, **HB 287**

Labor and Industry: **HB 285**, **HB 288**

State Government: **HB 266**, **HB 270**, **HB 273**, **HB 274**, **HB 275**, **HB 277**, **HB 278**, **HB 279**, **HB 280**, **HB 281**, **HB 282**, **HB 283**, **HB 284**

Transportation: **HB 276**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 124, HB 127, HB 140**

Report of Committees

The Committee on Cities reported **HB 187** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 187, AN ACT relating to nuisance abatement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.770 is amended to read as follows:

(1) It shall be unlawful for the owner, occupant or person having control or management of any land within a city ***or urban county*** to permit a public nuisance, health hazard or source of filth to develop thereon through the accumulation of rubbish or the excessive growth [~~thereon~~] of weeds or grass.

(2) It shall be unlawful for the owner, occupant or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish.

(3) It shall be unlawful in any city***, county or urban county*** for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures or other residents of the city***, county or urban county***.

(4) Any city***,*** [~~or a~~] county ***or urban county*** [~~containing a city of the first class~~] may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(5) The [~~county or~~] city***, county or urban county*** shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other subsequent liens, except state, county, school board and city taxes, and may be enforced by judicial proceeding.

(6) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties and other charges and the city***,*** [~~or~~] county ***or urban county*** may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(7) The provisions of subsections (4), (5) and (6) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

The Committee on Judiciary reported **HB 77** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 77, AN ACT relating to the expenses of public advocacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 31.200 is amended to read as follows:

(1) Subject to KRS 31.190, any direct expense, including the cost of a transcript or bystander's bill of exceptions or other substitute for a transcript that is necessarily incurred in representing a needy person***, but not including the cost of psychological or psychiatric examination of a needy person,*** under this chapter, is a charge against the county on behalf of which the service is performed.

(2) If two (2) or more counties jointly establish a Department of Public Advocacy, the expenses not otherwise allocable among the participating counties under subsection (1) shall be allocated, unless the counties otherwise agree, on the basis of population according to the most recent decennial census.

(3) Expenses incurred in the representation of needy persons confined in a state correctional institution, ***and expenses of psychological or psychiatric examination of needy persons confined in county jails,*** shall be borne by the state Department of Public Advocacy.

The Committee on Banking and Insurance reported **HB 52** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 52, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.14-440 is amended to read as follows:

(1) All insurance policies subject to the provisions of KRS 304.14-420 to 304.14-450 shall be written in language easily readable and understandable by a person of average intelligence and education.

(2) In determining whether a policy or contract is readable within the meaning of this section, the commissioner shall consider, at least, the following factors:

(a) The simplicity of the sentence structure and the shortness of the sentences used;

(b) The extent to which commonly used and understood words are employed;

(c) The extent to which legal terms are avoided;

(d) The extent to which references to other sections or provisions of the contract are minimized;

(e) The extent to which definitional provisions are incorporated in the text of the policy or contract; [~~and~~]

(f) ***As to health insurance policies, the extent to which definitions are not ambiguous and benefits are clearly expressed in language easily readable and understandable by a person of average intelligence and education; and***

(g) Any additional factors relevant to the readability or understandability of an insurance policy or contract which the commissioner may prescribe by regulation.

Calendar

HB 4, HB 12, HB 93, HB 152, HB 157 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 103, HB 145, HB 147, HB 149, HB 150, HB 151, HCR 4 and **HCR 9** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 7, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Substitute to **HB 7**. Agreed.

Representative Morris moved that **HB 7**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See January 11, 1990 roll call on **HB 7** - Appendix.)

HB 7, by way of Committee Substitute, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 7**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 64 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 64** be passed.

Representative Lear moved that **HB 64** be laid on the clerk's desk. Agreed.

HB 159 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 159** be passed.

On the roll call the vote was: Yeas 88, Nays 4. (See January 11, 1990 roll call on **HB 159** - Appendix.)

HB 159 was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 159** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 66 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 66** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 11, 1990 roll call on **HB 66** - Appendix.)

HB 66 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 18, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of Committee Amendment No. 1 to **HR 18**. Agreed.

Representative Bruce moved that **HR 18**, as amended, be passed.

HR 18, as amended, was passed and the title agreed to by voice vote.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, January 16, 1990: **HB 103**, **HB 145**, **HB 147**, **HB 149**, **HB 150**, **HB 151**, **HCR 4** and **HCR 9**.

The Committee on Rules reported **HB 21**, **HB 2**, **HB 4**, **HB 12**, **HB 93** and **HB 152** has been posted for passage in Orders of the Day, January 12, 1990.

The Committee on Rules reported the following Bill has been recommitted:

Business Organizations and Professions: **HB 157**

Introductions of Bills and Resolutions

HB 291, by Representatives Moberly, T. Jones and Barrows: AN ACT relating to a uniform state environmental policy.

HB 292, by Representatives Moberly and Blevins: AN ACT relating to higher education.

HB 293, by Representative Brown: AN ACT relating to recycled newsprint.

HB 294, by Representative Lear: AN ACT relating to residential care facilities for handicapped persons.

HB 295, by Representatives Johnson, Altman and B. Richardson: AN ACT relating to state owned vehicles.

HR 41, by Representative Lear: A RESOLUTION honoring Shirley McVay Wiseman of Lexington, Kentucky.

HR 42, by Representative Priddy: A RESOLUTION commending the Louisville *Courier-Journal* for its series of articles entitled "Kentucky Schools at a Crossroads".

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 3, HB 96**

Natural Resources and Environmental Protection: **HB 30, HB 32, HB 33, HB 34, HB 35, HB 36, HB 37, HB 67, HB 70, HB 80, HB 87**

Agriculture: **HB 75**

Report of Committees

The Committee on Banking and Insurance reported **HB 98**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 98, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In an automobile liability insurance policy, the insurer and the named insured may agree to exclude any person from coverage as the operator of an insured vehicle. The names of persons excluded shall be set forth in the policy or in an endorsement that is signed by both parties.

The Committee Amendment No. 1 to **HB 98** is as follows:

Amend printed copy of **HB 98** on page 1, line 1, by deleting "20" and inserting "39" in lieu thereof.

The Committee Amendment No. 2 to **HB 98** is as follows:

Amend printed copy of **HB 98** on page 1, line 5, by deleting "***person***" and inserting in lieu thereof "***member of the household not a spouse or dependent***".

Motions, Petitions and Communications (Cont'd)

Representative Blevins moved the adoption of the following **HR 34**:

HR 34, A RESOLUTION applauding the evolving democratic principles of Poland.

WHEREAS, we can now dare to imagine a new world; and

WHEREAS, at long last Eastern Europe has a chance at fundamental change; and

WHEREAS, this is an historic time for Kentucky as well; and

WHEREAS, for over two hundred years Kentucky's democratic government has evolved; and

WHEREAS, at this time Kentucky is historically renewing itself by rebuilding its entire school system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives cheers the manner in which Poland is embracing democratic principles.

Section 2. That the members of this honorable body are invigorated by the rebirth of Poland.

Section 3. That the House wishes the new government of Poland patience in moving toward democratic principles that are important to people everywhere.

Section 4. The clerk of the House of Representatives is directed to transmit a copy of this resolution to Poland's Embassy, 2640 16th St. NW, Washington, D.C. 20009.

HR 34 was adopted by voice vote.

Representative Blevins moved the adoption of the following **HR 35**:

HR 35, A RESOLUTION applauding the evolving democratic principles of the German Democratic Republic.

WHEREAS, we can now dare to imagine a new world; and

WHEREAS, at long last Eastern Europe has a chance at fundamental change; and

WHEREAS, this is an historic time for Kentucky as well; and

WHEREAS, for over two hundred years Kentucky's democratic government has evolved; and

WHEREAS, at this time Kentucky is historically renewing itself by rebuilding its entire school system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives cheers the manner in which the German Democratic Republic is embracing democratic principles.

Section 2. That the members of this honorable body are invigorated by the rebirth of the German Democratic Republic.

Section 3. That the House wishes the new government of the German Democratic Republic patience in moving toward democratic principles that are important to people everywhere.

Section 4. The clerk of the House of Representatives is directed to transmit a copy of this resolution to the German Democratic Republic Embassy, 1717 Massachusetts Avenue NW, Washington, D.C. 20036.

HR 35 was adopted by voice vote.

Representative Blevins moved the adoption of the following **HR 36**:

HR 36, A RESOLUTION applauding the evolving democratic principles of Romania.

WHEREAS, we can now dare to imagine a new world; and

WHEREAS, at long last Eastern Europe has a chance at fundamental change; and

WHEREAS, this is an historic time for Kentucky as well; and

WHEREAS, for over two hundred years Kentucky's democratic government has evolved; and

WHEREAS, at this time Kentucky is historically renewing itself by rebuilding its entire school system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives cheers the manner in which Romania is embracing democratic principles.

Section 2. That the members of this honorable body are invigorated by the rebirth of Romania.

Section 3. That the House wishes the new government of Romania patience in moving toward democratic principles that are important to people everywhere.

Section 4. The clerk of the House of Representatives is directed to transmit a copy of this resolution to Romania's Embassy, 1607 23rd Street NW, Washington, D.C. 20008.

HR 36 was adopted by voice vote.

Representative Blevins moved the adoption of the following **HR 37**:

HR 37, A RESOLUTION congratulating the new Panamanian government.

WHEREAS, Panama and Latin America sigh in relief that the brutal Panamanian dictator, Noriega, is gone; and

WHEREAS, freely elected politicans ousted by Noriega have been rightfully installed; and

WHEREAS, newly elected civilians of Panama have begun building a new government;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body congratulates and supports the new Panamanian government as it reaches out to all its citizens.

Section 2. That the Clerk of the House is directed to transmit a copy of this resolution to Panama's Embassy, 2862 McGill Terrace NW, Washington, D.C. 20008.

HR 37 was adopted by voice vote.

Representative Blevins moved the adoption of the following **HR 38**:

HR 38, A RESOLUTION applauding the evolving democratic principles of Bulgaria.

WHEREAS, we can now dare to imagine a new world; and

WHEREAS, at long last Eastern Europe has a chance at fundamental change; and

WHEREAS, this is an historic time for Kentucky as well; and

WHEREAS, for over two hundred years Kentucky's democratic government has evolved; and

WHEREAS, at this time Kentucky is historically renewing itself by rebuilding its entire school system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives cheers the manner in which Bulgaria is embracing democratic principles.

Section 2. That the members of this honorable body are invigorated by the rebirth of Bulgaria.

Section 3. That the House wishes the new government of Bulgaria patience in moving toward democratic principles that are important to people everywhere.

Section 4. The clerk of the House of Representatives is directed to transmit a copy of this resolution to Bulgaria's Embassy, 1621-22nd St. NW, Washington, D.C. 20008.

HR 38 was adopted by voice vote.

Representative Blevins moved the adoption of the following **HR 39**:

HR 39, A RESOLUTION applauding the evolving democratic principles of Czechoslovakia.

WHEREAS, we can now dare to imagine a new world; and

WHEREAS, at long last Eastern Europe has a chance at fundamental change; and

WHEREAS, this is an historic time for Kentucky as well; and

WHEREAS, for over two hundred years Kentucky's democratic government has evolved; and

WHEREAS, at this time Kentucky is historically renewing itself by rebuilding its entire school system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives cheers the manner in which Czechoslovakia is embracing democratic principles.

Section 2. That the members of this honorable body are invigorated by the rebirth of Czechoslovakia.

Section 3. That the House wishes the new government of Czechoslovakia patience in moving toward democratic principles that are important to people everywhere.

Section 4. The clerk of the House of Representatives is directed to transmit a copy of this resolution to Czechoslovakia's Embassy, 3900 Linnean Avenue NW, Washington, D.C. 20008.

HR 39 was adopted by voice vote.

Representative Blevins moved the adoption of the following **HR 40**:

HR 40, A RESOLUTION applauding the evolving democratic principles of Hungary.

WHEREAS, we can now dare to imagine a new world; and

WHEREAS, at long last Eastern Europe has a chance at fundamental change; and

WHEREAS, this is an historic time for Kentucky as well; and

WHEREAS, for over two hundred years Kentucky's democratic government has evolved; and

WHEREAS, at this time Kentucky is historically renewing itself by rebuilding its entire school system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives cheers the manner in which Hungary is embracing democratic principles.

Section 2. That the members of this honorable body are invigorated by the rebirth of Hungary.

Section 3. That the House wishes the new government of Hungary patience in moving toward democratic principles that are important to people everywhere.

Section 4. The clerk of the House of Representatives is directed to transmit a copy of this resolution to Hungary's Embassy, 3910 Shoemaker St. NW, Washington, D.C. 20008.

HR 40 was adopted by voice vote.

Representative Blevins moved that a call of the roll be taken to show co-sponsors of **HR 34**, **HR 35**, **HR 36**, **HR 37**, **HR 38**, **HR 39** and **HR 40**. Agreed.

The following members requested that their names be added as co-sponsors to **HR 34**, **HR 35**, **HR 36**, **HR 37**, **HR 38**, **HR 39** and **HR 40**—Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, P. Clark, Clarke, Cline, Crupper, Curtsinger, Cyrus, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, Keith, Layman, Lefevers, Lile, Little, Long, Lyne, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Nelson, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Rapier, Richards, B. Richardson, Ridley, Sheehan, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, White, Worthington, Zimmerman.

Representative Priddy moved the adoption of the following **HR 42**:

HR 42, A RESOLUTION commending the Louisville *Courier-Journal* for its series of articles entitled "Kentucky Schools at a Crossroads".

A crossroads is the point where one must choose between different courses of action.

WHEREAS, the high court of Kentucky placed its citizens at the crossroads of their childrens future by declaring the educational system to be unconstitutional; and

WHEREAS, since June of 1989 when the court's edict was issued, the members of the General Assembly, both individually and collectively, have been struggling to make some of the most critical decisions ever faced in the 197 year history of the Commonwealth; and

WHEREAS, the journalistic excellence of the Louisville *Courier-Journal* has greatly assisted the legislature with its task — for "Kentucky Schools at a Crossroads" has stripped the facade from the problems in which our educational system has been entrenched; and

WHEREAS, beginning in August 1989 with a special Bluegrass State Poll, the *Courier-Journal* found that Kentuckians would be willing to see their taxes increased for school reform if general administration and financial management of local systems could be improved and "politics" removed from our schools; and

WHEREAS, the segment on "Paying for Reform" dispelled many misconceptions about the tax burden in Kentucky and revealed that the tax burden on business and individuals is actually lower here than in other states; and

WHEREAS, "Paying for Reform" exposed the numerous flaws of Kentucky's system of property assessment — disclosing the prevalent practice of under assessing real estate; and

WHEREAS, "Paying for Reform" also reviewed how other states have tried to equalize school funding and proffered a step by step method for Kentucky that was very similar to the equalization formula recently proposed by a consultant to the special Task Force on Education Reform; and

WHEREAS, "Crises in Appalachia" was a superlative expose on the conditions and problems unique to poverty stricken areas that severely limit the opportunities of students in these systems; and

WHEREAS, the exhaustive efforts of the staff of the *Courier-Journal* revealed areas of Virginia that although located in Appalachia, the school systems have conquered the same historical problems that continue to plague Eastern Kentucky; and

WHEREAS, "Kentucky Schools at a Crossroads" attempted to answer the question of what constitutes an "adequate" education by evaluating problems and suggesting solutions to "how to obtain a better education"; and

WHEREAS, "Demographics of School Reform" was a segment that focused on how limited resources should be spent in the years ahead because in the future, there will be less of a need to concentrate on bricks and mortar and an increased need to concentrate limited resources on a growing number of disadvantaged students; and

WHEREAS, "Kentucky Schools at a Crossroads" provided an excellent overview of curriculum needs, targeting not only the inadequacy of pre-school programs and the disparities in course offerings between systems, but publicizing the innovative programs that are in desperate need of financial support — programs like the KET Star Channel and PACE; and

WHEREAS, "Kentucky Schools at a Crossroads" concluded with a look into the "troubles in teaching", bringing to light the frustration and poor working conditions of teaching in some public schools; and

WHEREAS, the authors of "Kentucky Schools at a Crossroads" had the courage to address the problems associated with tenure and the difficulties associated with removing a bad teacher from the classroom; and

WHEREAS, "Kentucky Schools at a Crossroads" was an exhaustive research project that contained a wealth of information, invaluable to the individuals who must soon choose a course of action;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby commend and laud the Louisville *Courier-Journal* for its exemplary series "Kentucky Schools at a Crossroads".

Section 2. That the House does hereby praise every staff member of the *Courier-Journal* that contributed to this outstanding series.

Section 3. That the members of the House praise and esteem the Louisville *Courier-Journal* for its leadership role in education reform.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Mr. David Hawpe, Editor, Louisville *Courier-Journal.*

HR 42 was adopted by voice vote.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB** 157, by Representative Heleringer:

Amend printed copy of **HB** 157 on page 24, after line 5, by adding the following new section:

Section 23. KRS 230.240 is amended to read as follows:

(1) In addition to the employees referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employees deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by rule the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission ***shall be*** [~~is~~] authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.210 to 230.360 in such manner and in such proportions as the commission may by rule provide.

(3) The compensation of the employees referred to in this section shall be paid by the licensee conducting the thoroughbred race meeting in connection with which ***the*** [~~said~~] employees are utilized or employed. The salary of the secretary to the commission shall be prorated among and paid by the various associations licensed under KRS 230.210 to 230.360 in the manner as the commission may, by rule, provide. The employees referred to in this section shall be deemed employees of the commission, and ***shall be*** [~~are~~] paid by the licensee or association for convenience only.

(4) ***(a) Upon award and utilization of any pari-mutuel tax credit granted pursuant to KRS Chapter 138, an association shall grant to its racing officials fifty dollars ($50) in unvouchered expense money per work day for each thoroughbred race meeting at which the racing official is actually utilized or employed, if the principal residence of the racing official is fifty (50) miles or more away from the thoroughbred race meeting.*** Each person, as a condition precedent to the privilege of receiving a license under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting, shall be deemed to have agreed that it ***shall*** [~~will~~] pay ***the*** [~~such~~] expenses and compensation as provided in this section and as may be actually and reasonably incurred.

(b) "Racing official" means association steward, assistant racing secretary, placing judge, patrol judge, clerk of the scales, timer, claims clerk, paddock judge, jockey room custodian, outrider, and starter.

Floor Amendment No. 1 to **HB** 31, by Representative Maggard:

Amend printed copy of **HB** 31 on page 1, line 9, by adding after the word "***written.***" the following:

"***It is an additional finding that medical or infectious waste is a component of solid waste which must not be burned for disposal without adequate safeguards of the public health.***"

On page 1, line 16, by adding after the word "***standards.***" the following:

"***(2) Medical or infectious waste incinerated in any form or for any purpose shall be regulated as solid waste.***"; and

On page 1, line 17, by changing "***(2)***" to "***(3)***".

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representative Barrows; **HB 5**, Representatives Lefevers, Gregory; **HB 7**, Representatives Gedling, Bronger, Altman, Butler, Callahan, L. Clark, P. Clark, Lefevers, Noland, Worthington; **HB 9**, Representatives Jackson, Worthington; **HB 12**, Representatives Hourigan, B. R. Smith, Lefevers, Noland; **HB 20**, Representatives Gregory, Sheehan; **HB 38**, Representative Heleringer; **HB 39**, Representative Lefevers; **HB 43**, Representative Worthington; **HB 73**, Representative Mason; **HB 80**, Representative Northup; **HB 88**, Representative Bronger; **HB 93**, Representative Maggard; **HB 98**, Representative White; **HB 111**, Representative Gregory; **HB 113**, Representatives Blevins, Gregory, T. Jones, Stumbo; **HB 126**, Representatives Napier, Siler, Donnermeyer, Mason, Reinhardt, Turner, White; **HB 147**, Representative Maggard; **HB 194**, Representatives Altman, Donnermeyer; **HB 207**, Representative White; **HB 212**, Representative White; **HB 221**, Representatives Lefevers; **HB 229**, Representative White; **HB 233**, Representatives Hatcher, Keith, Heleringer, Jackson, Mack, P. Richardson, Yates; **HB 248**, Representative Lile; **HB 249**, Representative Lile; **HB 259**, Representatives Lefevers, Noland; **HB 270**, Representative Lefevers; **HB 286**, Representative Heleringer;

The following members requested that their names be withdrawn as co-sponsors to **HB 242**: Representatives Allen, Ford, K. Harper and LeMaster.

The Clerk announced the following meetings:

Minority Caucus will meet at 3:00 p.m., Tuesday, January 16, 1990.

The Committee on Health and Welfare will meet at 2:00 p.m., Tuesday, January 16, 1990.

The Clerk announced the cancellation of the following meeting:

Budget Review Subcommittee on Natural Resources, Friday, January 12, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., January 12, 1990.

On the roll call the vote was yeas 77—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bronger, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, Ridley, Scorsone, Sheehan, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Ward, White, Worthington,. Nays 3—Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, JANUARY 12, 1990

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend James Hensley, Salvisa Baptist Church, Salvisa.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Donnermeyer, Priddy, Yates and Zimmerman.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 11, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 3**, **SB 72**, **SB 89**, **SB 90**, **SB 91**, **SB 95**, **SB 97**.

Introduction of Bills

HB 296, by Representatives P. Richardson, Crupper, B. Richardson, Gregory, Ballard, Ark, Castleman and Butler: AN ACT relating to the procurement of banking services by the Commonwealth.

HB 297, by Representative Richards: AN ACT relating to local option.

HB 298, by Representatives Nett, Kerr, K. Harper, Callahan, P. Richardson, Priddy, Butler, Johnson, Reinhardt, Heleringer, Hancock, Donnermeyer, Bronger, L. Clark, Lefevers, Northup, Altman, P. Clark, Casebier, Ackerson, Gray, Bruce and B. Richardson: AN ACT relating to crimes and punishments.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 46**, **SCR 4**, **SCR 5**

Cities: **SB 6**, **SB 8**, **SB 44**, **HB 294**

Counties and Special Districts: **SB 64**

Education: **HB 292**

Judiciary: **HB 295**

Labor and Industry: **HB 290**

Natural Resources and Environmental Protection: **HB 289**, **HB 291**, **HB 293**

Calendar

HB 52, **HB 77**, **HB 98** and **HB 187** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 21 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 21** be passed.

On the roll call the vote was: Yeas 77, Nays 0. (See January 12, 1990 roll call on **HB 21** - Appendix.)

HB 21 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 21** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 93 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 93** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See January 12, 1990 roll call on **HB 93** - Appendix.)

HB 93 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 93** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 2 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 2** be passed.

On the roll call the vote was: Yeas 80, Nays 0. (See January 12, 1990 roll call on **HB 2** - Appendix.)

HB 2 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 2** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 12 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved that **HB 12** be passed.

On the roll call the vote was: Yeas 80, Nays 8. (See January 12, 1990 roll call on **HB 12** - Appendix.)

HB 12 was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 12** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved that **HB 4** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See January 12, 1990 roll call on **HB 4** - Appendix.)

HB 4 was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 4** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HB 20**, **HB 52**, **HB 98** and **HB 187** have been posted for passage in Orders of the Day, January 16, 1990.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 77**

Introduction of Bills

HB 299, by Representative Kerr: AN ACT relating to motor carrier registration.

HB 300, by Representative Noe: AN ACT relating to support services for families.

HB 301, by Representative Kerr: AN ACT relating to Public Roads.

HB 302, by Representative Johnson: AN ACT relating to state police retirement.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 294**

Appropriations and Revenue: **HB 221, HB 244, HB 255**

Counties and Special Districts: **HB 49, HB 54, HB 191**

Health and Welfare: **HB 79, HB 81, HB 167**

Representative Lear moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Lear moved the adoption of the following **HR 41**:

HR 41, A RESOLUTION honoring Shirley McVay Wiseman of Lexington, Kentucky.

WHEREAS, Shirley McVay Wiseman will soon complete a distinguished and highly productive year as President of the National Association of Home Builders; and

WHEREAS, Shirley McVay Wiseman has served admirably as the spokesperson for the housing industry and this 158,000-member organization; and

WHEREAS, Shirley McVay Wiseman has served the Commonwealth extremely well, serving as a good will ambassador for the "Bluegrass State" during her travels throughout the world; and

WHEREAS, Shirley McVay Wiseman is the first woman ever to become the President of the National Association of Home Builders; and

WHEREAS, Shirley McVay Wiseman has supported and worked diligently to promote the dream of home ownership and housing affordability for all Americans;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky do hereby honor Shirley McVay Wiseman for her extraordinary efforts as 1989 President of the National Association of Home Builders, and as a national housing industry leader.

Section 2. That the Clerk of the House, transmit a copy of this resolution to Shirley McVay Wiseman of Lexington, Kentucky.

HR 41 was adopted by voice vote.

Representative Stumbo moved that when the House adjourns today, it do so in honor of Representative James B. Yates. Agreed.

Representative Jensen moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Jensen moved the adoption of the following Legislative Citation No. 7. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the Laurel Education Committee.

WHEREAS, the Laurel Education Committee met throughout 1989 to discuss this important responsibility and propose ideas for improving education, and

WHEREAS, the dedicated members of the Laurel Education Committee have faithfully served their community and fellow citizens,

NOW, THEREFORE, be it resolved by the Kentucky House of Representatives that we salute the efforts of the Laurel Education Committee and wish the members every success in their continuing efforts to improve education.

Representative Jensen individually honored the following members of the Laurel Education Committee:

Jack Bolton, Scott Davis, Shirley Druggan, G. C. Garland, Kenneth Gilliam, Lou Handy, Effie Hensley, Pearl Jean Hughes, Eddie Jones, Delford McKnight, Bill Moore, Coleman Moberly, Ray Roundtree, John Scoville, and Shirley Surface.

Representative Moberly moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Moberly moved that he be recorded as voting "yea" on **HB 2** and **HB 12**. Agreed.

Representative T. Jones moved that he be recorded as voting "yea" on **HB 2** and **HB 12**. Agreed.

Representative Maggard moved that he be recorded as voting "yea" on **HB 2**. Agreed.

Representative Adkins moved that **HB 290** be withdrawn. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representatives Burch, Hancock, Scorsone; **HB 38**, Representative Northup; **HB 52**, Representative Lile; **HB 60**, Representative Northup; **HB 184**, Representative Preston; **HB 229**, Representatives Lyne, White; **HB 259**, Representative White; **HB 268**, Representatives Ballard, Bentley, Bruce, Gedling, J. Harper, A. Jones, Lefevers, Napier, Noland, Ridley, Stumbo, White.

The following members requested that their names be withdrawn as co-sponsors to **HB 242**: Representatives Gedling and Napier. Agreed.

Announcements

The Clerk announced the following meetings:

The Committee on Natural Resources and Environmental Protection will meet at 12 Noon, Tuesday, January 16, 1990.

The Minority Caucus will met at 1:00 p.m., Tuesday, January 16, 1990.

The Committee on Health and Welfare will meet Tuesday, January 16, 1990, upon adjournment.

The following meetings scheduled for Tuesday, January 16, 1990, have been cancelled:

Elections and Constitutional Amendments
Energy
Agriculture and Small Business
State Government

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, January 16, 1990.

On the roll call the vote was yeas 84—Ackerson, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr Lear, Lefevers, Lewis, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington. Nays 5—Bronger, Curtsinger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, JANUARY 16, 1990

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Larry Cook, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Donnermeyer.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 12, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 31** and **SB 68**.

Introduction of Bills and Resolutions

HB 303, by Representatives Stokes and Freibert: AN ACT relating to child day-care facilities and making an appropriation therefor.

HB 304, by Representative Blevins: AN ACT relating to freedom of expression.

HB 305, by Representatives McBee and Walker: AN ACT relating to retirement.

HB 306, by Representative Clarke: AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 307, by Representatives Blandford, Richards, Stumbo, Rapier, Worthington, Clarke and Long: AN ACT making appropriations for operations, maintenance and support of the legislative branch of the government of the Commonwealth of Kentucky.

HB 308, by Representative Geveden: AN ACT relating to the Kentucky State Fair Board.

HB 309, by Representative Clarke: AN ACT relating to public officials.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Banking and Insurance: **HB 296**.

Business Organizations and Professions: **HB 297**.

Education: **HB 300**.

Elections and Constitutional Amendments: **SB 72**.

Judiciary: **HB 298**.

State Government: **SB 3**, **SB 89**, **SB 90**, **SB 91**, **SB 95**, **SB 97**, **HB 302**.

Transportation: **HB 299**, **HB 301**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Resolution has been posted for Committee consideration:

Transportation: **HJR 17**.

Report of Committees

The Committee on Natural Resources and Environmental Protection reported **HB 31** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 31, AN ACT relating to solid waste incineration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) It is the finding of the General Assembly of the Commonwealth of Kentucky that circumstances have arisen in the waste disposal industry which encourage the incineration of solid waste. It is also a finding that the environmental consequences of burning solid waste are not completely known and that specific controls are yet to be written. To avoid the potential for environmental degradation which may result from a failure to respond on a timely basis to using incineration as a disposal method for solid waste, the cabinet shall develop standards for the design and operation of solid waste incinerators. It is the intent of the General Assembly that all facilities in Kentucky which burn solid waste shall comply with the standards.

(2) No permit shall be issued by any state agency authorizing the construction or operation of an incinerator fueled in part or in whole with solid waste until the offices of the cabinet with the responsibility for the management of waste and air quality have developed standards governing the design, construction, maintenance, closure, inspection, and operation of such facilities.

The Committee Amendment No. 1 to **HB 31** is as follows:

Amend printed copy of **HB 31** on page 1, line 9, by adding after the word "***written.***" the following:

"***It is an additional finding that medical or infectious waste is a component of solid waste which must not be burned for disposal without adequate safeguards of the public health.***"

On page 1, line 16, by adding after the word "***standards.***" the following: "***The ash from the incineration of solid waste (including medical waste) shall be tested to determine if it exhibits any of the characteristics of a hazardous waste.***"

The Committee on Natural Resources and Environmental Protection reported **HB 87** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Representative Stumbo moved that **HB 103**, **HB 145**, **HB 147**, **HB 149**, **HB 150**, **HB 151**, **HCR 4** and **HCR 9** be taken from the Consent Orders of the Day and placed in the Regular Orders of the Day. Agreed.

Orders of the Day

HB 52 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved that **HB 52** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See January 16, 1990 roll call on **HB 52** - Appendix.)

HB 52 was passed and the title agreed to.

Representative J.Harper moved that the vote by which **HB 52** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 103 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 103** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 16, 1990 roll call on **HB 103** - Appendix.)

HB 103 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 103** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 145 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 145** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 16, 1990 roll call on **HB 145** - Appendix.)

HB 145 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 145** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 147** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 16, 1990 roll call on **HB 147** - Appendix.)

HB 147 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 147** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 149 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 149** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 16, 1990 roll call on **HB 149** - Appendix.)

HB 149 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 149** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 150 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 150** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 16, 1990 roll call on **HB 150** - Appendix.)

HB 150 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 150** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 20 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved that **HB 20** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 16, 1990 roll call on **HB 20** - Appendix.)

HB 20 was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 20** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 98, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noland moved the adoption of Committee Amendment No. 1 to **HB 98**. Agreed.

Representative Noland moved the adoption of Committee Amendment No. 2 to **HB 98**. Agreed.

Representative Noland moved that **HB 98**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See January 16, 1990 roll call on **HB 98** - Appendix.)

HB 98, as amended, was passed and the title agreed to.

Representative Noland moved that the vote by which **HB 98**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for the purpose of correcting the Friday, January 12, 1990, roll call of members present. Agreed.

Representative Stumbo moved that when the House convenes on Thursday, January 18, 1990, it do so at 1:00 p.m. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 310, by Representatives Hourigan and Callahan: AN ACT relating to crimes and punishments.

HB 311, by Representatives Adkins, Cyrus, Bronger, Butler, L. Clark and Brown: AN ACT relating to labor-management relations.

HB 312, by Representatives Adkins, R. Smith and McElroy: AN ACT relating to surface mining.

HB 313, by Representative Northup: AN ACT relating to motor vehicle operators.

HB 314, by Representatives Long, P. Richardson and Todd: AN ACT relating to state leasing of office or other space.

HB 315, by Representative Stumbo: AN ACT relating to school buses.

HB 316, by Representatives Arnold, Worthington, Crupper, P. Clark, Gedling, Napier, Rapier, Donnermeyer, Riner, Preston, Altman, Layman, L. Clark, Stumbo, Todd, Turner, Brown, Blandford, Ward and Mullinix: AN ACT relating to elementary and secondary education.

HB 317, by Representatives Rapier, K. Harper, Ridley, Mason and Deskins: AN ACT relating to motor vehicles.

HR 43, by Representatives Bronger, Yates and LeMaster: A RESOLUTION adjourning the House of Representatives in memory of Earl Thomas Yates.

HR 44, by Representatives McElroy, Blandford and Johnson: A RESOLUTION condemning the kidnapping and brutalization of Sister Dianna Ortiz.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 148, HB 264, HB 267.**

Representative Bronger moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bronger moved the adoption of the following **HR 43**:

HR 43, A RESOLUTION adjourning the House of Representatives in memory of Earl Thomas Yates.

With deepest respect, we pay tribute to Earl Thomas Yates.

WHEREAS, Earl Thomas Yates of Jefferson County, Kentucky, traversed these earthly bounds on Thursday, January 11, 1990; and

WHEREAS, Earl Thomas Yates was a dedicated police officer with the Louisville Police Department from February 23, 1954 to October 2, 1977; and

WHEREAS, Earl Thomas Yates was a respected citizen of his community and he will be sorely missed by his family and friends; and

WHEREAS, Earl Thomas Yates was the loving brother of Representative Jim Yates;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its profound grief over the loss of Earl Thomas Yates.

Section 2. That the House of Representatives extends its sincere and most heartfelt sympathy to the family of Earl Thomas Yates.

Section 3. That when the House of Representatives adjourns this day, Tuesday, January 16, 1990, it does so in memory of Earl Thomas Yates.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Representative Jim Yates, 2305 Thurman Drive, Shively, Kentucky, 40216.

HR 43 was adopted by voice vote.

Representative Yates moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Yates moved that he be recorded as voting "yea" on **HB 2**, **HB 4**, **HB 12**, **HB 21** and **HB 93**. Agreed.

Representative White moved that her name be withdrawn as co-sponsor of **HB 288**. Agreed.

Representative Gedling moved that his name be withdrawn as co-sponsor on **HB 242**. Agreed.

Representative Priddy moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Priddy moved that she be recorded as voting "yea" on **HB 2** and **HB 92**. Agreed.

Announcements

The Clerk announced the following meetings:

The Committee on Labor and Industry will meet at 9:00 a.m., January 17, 1990.

The Committee on Agriculture and Small Business will meet at 1:00 p.m., January 17, 1990 in Room 116.

The Committee on Health and Welfare will meet thirty minutes after adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 17, 1990.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Siler, B. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 5—P. Clark, Heleringer, LeMaster, Lile, Sheehan.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 17, 1990

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Charles Brown, Bellevue Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Donnermeyer.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 16, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 53**, **SB 56**, **SB 59**, **SB 60** and **SB 62**.

Representative Bronger moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Bronger moved the adoption of the following Legislative Citation No. 9. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Maria Sturgeon, of Louisville, Kentucky, Miss 1989 Kentucky Miss T.E.E.N. Miss Sturgeon's talents and first place honors in scholastic achievement, volunteer service, speech and interview skills captured the crown for Miss Sturgeon. While a senior at Assumption High School, Miss Sturgeon has maintained a 4.0 grade point average.

The House of Representatives joins Representative Jerry Bronger in extending our very best wishes to Maria Sturgeon for health, happiness and continued success.

Introduction of Bills and Resolutions

HB 318, by Representatives Zimmerman, Lewis and Altman: AN ACT relating to lawsuits by prisoners.

HB 319, by Representatives Lewis, Ridley, R. Smith, A. Jones, Sheehan, Castleman, Curd, Geveden, Blevins, Zimmerman, Hourigan and Pritchett: AN ACT relating to crimes and punishments.

HB 320, by Representative Nelson: AN ACT relating to the reclassification of cities.

HB 321, by Representative Richards: AN ACT relating to proprietary education.

HB 322, by Representative Clarke: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 323, by Representative Clarke: AN ACT relating to revenue and taxation.

HJR 45, by Representatives Preston, Deskins, Strong, Todd, Siler, Ford, Napier, Stumbo, Maggard, Blevins, Mason, Cyrus, Cline, Noland, Lefevers, Bentley, White and Little: A JOINT RESOLUTION directing the Secretary of the Transportation Cabinet to designate the portion of US Highway 23 in Johnson County as the "Loretta Lynn Highway."

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 306**, **HB 307**, **HB 314**.

Business Organizations and Professions: **SB 31**.

Cities: **HB 305**.

Education: **HB 304**, **HB 316**.

Health and Welfare: **HB 303**.

Judiciary: **HB 310**.

Labor and Industry: **HB 311.**

Natural Resources and Environmental Protection: **HB 312.**

State Government: **HB 308, HB 309.**

Transportation: **HB 313, HB 315, HB 317.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: **HB 265.**

Judiciary: **HB 82, HB 120, HB 182, HB 184, HB 216, HB 261, HB 272, HB 287, HB 295, HB 298.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 96** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 96, AN ACT relating to inheritance and estate taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.070 is amended to read as follows:

The tax upon transfers of property as defined in the preceding sections of this chapter shall be at the following rates:

(1) Class A. In case the transfer is to or for the benefit of a parent, surviving spouse, child by blood, stepchild, child adopted during infancy, ***child adopted during adulthood who was reared by the decedent during infancy*** or a grandchild who is the issue of a child by blood, ***the issue*** of a stepchild, ***the issue of a child adopted during adulthood who was reared by the decedent during infancy*** or ***the issue*** of a child adopted during infancy, the tax, subject to the provisions of KRS 140.080, shall be:

On its value not exceeding $20,000	2%
On its value exceeding $20,000, but not exceeding $30,000	3%
On its value exceeding $30,000, but not exceeding $45,000	4%
On its value exceeding $45,000, but not exceeding $60,000	5%
On its value exceeding $60,000, but not exceeding $100,000	6%
On its value exceeding $100,000, but not exceeding $200,000	7%
On its value exceeding $200,000, but not exceeding $500,000	8%
On its value exceeding $500,000	10%

(2) Class B. In case the transfer is to or for the benefit of a brother, sister, brother or sister of the half-blood, nephew, niece, or a nephew or niece of the half-blood, daughter-in-law, son-in-law, aunt or uncle, the tax, subject to the provisions of KRS 140.080, shall be:

On its value not exceeding $10,000	4%
On its value exceeding $10,000, but not exceeding $20,000	5%
On its value exceeding $20,000, but not exceeding $30,000	6%
On its value exceeding $30,000, but not exceeding $45,000	8%
On its value exceeding $45,000, but not exceeding $60,000	10%
On its value exceeding $60,000, but not exceeding $100,000	12%
On its value exceeding $100,000, but not exceeding $200,000	14%
On its value exceeding $200,000	16%

(3) Class C. In case the transfer is to or for the benefit of any educational, religious or other institutions, societies or associations, or to any cities, towns or public institutions not exempted by KRS 140.060, or to any person not included in either Class A or Class B, the tax, subject to the provisions of KRS 140.080 shall be:

On its value not exceeding $10,000	6%
On its value exceeding $10,000, but not exceeding $20,000	8%
On its value exceeding $20,000, but not exceeding $30,000	10%
On its value exceeding $30,000, but not exceeding $45,000	12%
On its value exceeding $45,000, but not exceeding $60,000	14%
On its value exceeding $60,000	16%

Section 2. KRS 140.080 is amended to read as follows:

(1) The following exemptions chargeable against the lowest bracket or brackets of inheritable interests shall be free from any tax under the preceding provisions of this chapter:

(a) Surviving spouse, total inheritable interest. Effective as to decedents dying after August 1, 1985, notwithstanding anything in this chapter to the contrary, if the decedent's personal representative (or trustee or transferee, absent a personal representative) shall so elect, the spouse's inheritable interest shall include the entire value of any trust or life estate which is in a form that qualifies for the federal estate tax marital deductions under section 2056(b)(5) or 2056(b)(7) of the Internal Revenue Code of 1954, as amended through December 31, 1984, regardless of whether or not the federal estate tax marital deduction is elected by the decedent's personal representative. To be valid, the election referred to in the sentence immediately preceding must be made in the form prescribed by the revenue cabinet and must be filed on or before the due date of the tax return (plus extensions) or with the first tax return filed, whichever last occurs;

(b) 1. Infant child by blood or adoption, $20,000;

2. Child by blood who has been declared mentally disabled by a court of competent jurisdiction, $20,000; [~~or a~~]

3. Child adopted during infancy who has been declared mentally disabled by a court of competent jurisdiction, $20,000; ***or a***

4. Child adopted during adulthood who was reared by the decedent during infancy and who has been declared mentally disabled by a court of competent jurisdiction, $20,000;

(c) 1. Parent, $5,000;

2. Child by blood, $5,000;

3. Stepchild, $5,000;

4. Child adopted during infancy, $5,000; [~~or a~~]

5. ***Child adopted during adulthood who was reared by the decedent during infancy, $5,000; or a***

6. Grandchild who is the issue of a child by blood, ***the issue*** [~~or~~] of a stepchild***, the issue*** [~~or~~] of a child adopted during infancy ***or the issue of a child adopted during adulthood who was reared by the decedent during infancy***, $5,000;

(d) All persons of Class B, under KRS 140.070, $1,000; and

(e) All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

The Committee on Appropriations and Revenue reported **HB 221**, with Committee Substitute and Title Amendment attached thereto, and **HB 255** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 221, AN ACT relating to Vietnam veterans bonus.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 40.400 is amended to read as follows:

As used in KRS 40.410 to 40.560, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Department of Military Affairs" means the office of the adjutant general, Commonwealth of Kentucky;

(2) "Administrator" means the individual designated by the adjutant general to carry out the responsibilities of KRS 40.410 to 40.560;

(3) "Armed forces" means the United States Army, Navy, Marine Corps, Air Force and Coast Guard, including the reserve components thereof on active duty, other than for training, and shall not include the merchant marine;

(4) "Qualified veteran" means any person whose period of active duty service meets the criteria set forth in subsection (5) or (6) of this section;

(5) "Qualifying Vietnam service" means service by any person who:

(a) Served as a member of the armed forces of the United States in Vietnam or its contiguous waters or airspace, as defined in United States Department of Defense Directive 1348.15, October 1, 1965, for a period of at least thirty (30) days, unless such period was lessened as a result of death or medical evacuation, during the period July 1, 1958 through May 15, 1975; or served as a member of the armed forces of the United States in the Dominican Republic, Congo, Thailand, Laos or Cambodia, or participated in aerial missions in the airspace over same, for a period of at least thirty (30) days, unless such period was lessened as a result of death or medical evacuation, during the period July 3, 1965 through May 15, 1975; or served as a member of the armed forces of the United States and was awarded, or was eligible for award of, the Vietnam service medal established by United States Department of Defense Directive 1348.15, October 1, 1965;

(b) Was released, separated or discharged from the armed forces under other than dishonorable conditions or who is presently serving on active duty;

(c) Was a resident of the Commonwealth at the time of entry into active service in the armed forces and for at least six (6) months prior thereto; ***and***

(d) Has not received a similar bonus for such service from any other state; [~~and~~

~~(e) Did not receive a Kentucky veterans' bonus under the provisions of KRS 40.005 to 40.230 and 40.990;~~]

(6) "Qualifying Vietnam era service" means service by any person who:

(a) Served in the armed forces of the United States on active duty, including service in a reserve component thereof other than for training, for at least ninety (90) consecutive days, exclusive of time lost as AWOL or in penal confinement, during the period August 5, 1964 to May 15, 1975, but whose service was in a location not included in subsection (5)(a) of this section;

(b) Was released, separated or discharged from the armed forces under other than dishonorable conditions or is still serving on active duty;

(c) Was a resident of the Commonwealth at the time of his entry into active service in the armed forces and for at least six (6) months prior thereto; ***and***

(d) Has not received a similar bonus for such service from any other state; [~~and~~

~~(e) Did not receive a Kentucky veterans' bonus under the provisions of KRS 40.005 to 40.230 and 40.990;~~]

(7) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his place of residence at ***the*** [~~such~~] time of entry. Conclusive and exclusive evidence of ***the*** [~~such~~] giving of place of residence shall be the official records on file in the Department of Defense of the United States, or any official record thereof in the files of the Veterans' Administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that ***it*** [~~the same~~] has been lost, misplaced, destroyed, or was in error or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(8) "Resident," in any context other than as in subsections (5) and (6) of this section, means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to ***the*** [~~such~~] regulations [~~as~~] the administrator ***promulgates*** [~~may promulgate~~];

(9) "Beneficiary" means the following persons who were alive at the time of application, in this order: widow, if none to the child or children equally, if none to the mother and father equally, but if the father is dead, the mother, if living, shall take the whole amount; but if the mother is dead, the father, if living, shall take the whole amount;

(10) (a) "Widow" means a woman who was the wife of a qualified veteran at the time of his death;

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female qualified veteran at the time of her death;

(11) "Child" means a person:

(a) Who is under the age of eighteen (18);

(b) Who, before attaining the age of eighteen (18), became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen (18) and until completion of education or training, but not after attaining the age of twenty-three (23), is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a legitimate child; a legally adopted child; a stepchild who is a member of a qualified veteran's household or was a member at the time of the veteran's death; or an illegitimate child, but, as to the alleged father, only if acknowledged in writing signed by him or if he had, before his death, been judicially decreed to be the father of such child;

(12) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(13) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(14) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the North American continent, exclusive of Alaska;

(15) "Outside the continental United States" means any place elsewhere than as defined in subsection (12) of this section;

(16) "Bonus" and "Vietnam veterans' bonus" mean the compensation authorized by KRS 40.410 to 40.560;

(17) "Bonus claim" means a claim or potential claim for a Vietnam veterans' bonus; and

(18) "Claimant" means one who seeks to obtain payment of a bonus claim.

Section 2. KRS 40.430 is amended to read as follows:

No bonus shall be paid to any member of the armed forces of the United States who did only civilian work at civilian pay ***or***[~~,~~] who has received from another state a bonus similar to the bonus provided by KRS 40.410 to 40.560[~~, or who received the Kentucky veterans' bonus under the provisions of KRS 40.005 to 40.230 and 40.990~~].

Section 3. KRS 40.460 is amended to read as follows:

(1) All applications for the bonus shall be submitted to the adjutant general, Commonwealth of Kentucky, in writing, upon forms made available for that purpose, and shall be accompanied by ***the*** [~~such~~] documentary evidence [~~as~~] prescribed by appropriate administrative regulations. Every application shall be certified under the penalties of perjury, and shall contain representations of the claimant [~~(~~]or, if he shall have been adjudged incompetent, or be an infant, of his committee or guardian[~~)~~], that:

(a) The facts therein stated are true to the best of his knowledge and belief;

(b) All documents submitted in support of the application are believed by the claimant to be genuine originals or copies, as the case may be, and that the claimant has no knowledge that the document has been superseded or cancelled;

(c) The claimant has not received from another state a bonus or compensation of a like nature as provided by KRS 40.410 to 40.560;

(d) [~~The claimant has not received the Kentucky veterans' bonus provided under KRS 40.005 to 40.230 and 40.990;~~

~~(e)~~] The claimant has neither paid nor agreed to pay, directly or indirectly, any compensation for assistance received in preparing and tendering the application; and

(e)[~~(f)~~] The claimant has knowledge of the fine and forfeiture provisions of KRS 40.410 to 40.560;

(2) The application form shall contain provision for, and each claimant shall elect, one (1) of the following choices:

(a) The claimant is eligible for and desires to receive a bonus payment; or

(b) The claimant is eligible for a bonus payment but requests that his payment be deposited into a veterans' program trust fund, which is hereby established, the proceeds and interest therefrom to be used for veterans' programs administered by the Department of Military Affairs.

The Committee Substitute to **HB 221** is as follows:

HB 221, AN ACT relating to Vietnam veterans bonus.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 40.400 is amended to read as follows:

As used in KRS 40.410 to 40.560, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Department of Military Affairs" means the office of the adjutant general, Commonwealth of Kentucky;

(2) "Administrator" means the individual designated by the adjutant general to carry out the responsibilities of KRS 40.410 to 40.560;

(3) "Armed forces" means the United States Army, Navy, Marine Corps, Air Force and Coast Guard, including the reserve components thereof on active duty, other than for training, and shall not include the merchant marine;

(4) "Qualified veteran" means any person whose period of active duty service meets the criteria set forth in subsection (5) or (6) of this section;

(5) "Qualifying Vietnam service" means service by any person who:

(a) Served as a member of the armed forces of the United States in Vietnam or its contiguous waters or airspace, as defined in United States Department of Defense Directive 1348.15, October 1, 1965, for a period of at least thirty (30) days, unless such period was lessened as a result of death or medical evacuation, during the period July 1, 1958 through May 15, 1975; or served as a member of the armed forces of the United States in the Dominican Republic, Congo, Thailand, Laos or Cambodia, or participated in aerial missions in the airspace over same, for a period of at least thirty (30) days, unless such period was lessened as a result of death or medical evacuation, during the period July 3, 1965 through May 15, 1975; or served as a member of the armed forces of the United States and was awarded, or was eligible for award of, the Vietnam service medal established by United States Department of Defense Directive 1348.15, October 1, 1965;

(b) Was released, separated or discharged from the armed forces under other than dishonorable conditions or who is presently serving on active duty;

(c) Was a resident of the Commonwealth at the time of entry into active service in the armed forces and for at least six (6) months prior thereto; ***and***

(d) Has not received a similar bonus for such service from any other state; [~~and~~

~~(e) Did not receive a Kentucky veterans' bonus under the provisions of KRS 40.005 to 40.230 and 40.990;~~]

(6) "Qualifying Vietnam era service" means service by any person who:

(a) Served in the armed forces of the United States on active duty, including service in a reserve component thereof other than for training, for at least ninety (90) consecutive days, exclusive of time lost as AWOL or in penal confinement, during the period August 5, 1964 to May 15, 1975, but whose service was in a location not included in subsection (5)(a) of this section;

(b) Was released, separated or discharged from the armed forces under other than dishonorable conditions or is still serving on active duty;

(c) Was a resident of the Commonwealth at the time of his entry into active service in the armed forces and for at least six (6) months prior thereto; ***and***

(d) Has not received a similar bonus for such service from any other state; [~~and~~

~~(e) Did not receive a Kentucky veterans' bonus under the provisions of KRS 40.005 to 40.230 and 40.990;~~]

(7) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his place of residence at ***the*** [~~such~~] time of entry. Conclusive and exclusive evidence of ***the*** [~~such~~] giving of place of residence shall be the official records on file in the Department of Defense of the United States, or any official record thereof in the files of the Veterans' Administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that ***it*** [~~the same~~] has been lost, misplaced, destroyed, or was in error or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(8) "Resident," in any context other than as in subsections (5) and (6) of this section, means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to ***the*** [~~such~~] regulations [~~as~~] the administrator ***promulgates*** [~~may promulgate~~];

(9) "Beneficiary" means the following persons who were alive at the time of application, in this order: widow, if none to the child or children equally, if none to the mother and father equally, but if the father is dead, the mother, if living, shall take the whole amount; but if the mother is dead, the father, if living, shall take the whole amount;

(10) (a) "Widow" means a woman who was the wife of a qualified veteran at the time of his death;

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female qualified veteran at the time of her death;

(11) "Child" means a person:

(a) Who is under the age of eighteen (18);

(b) Who, before attaining the age of eighteen (18), became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen (18) and until completion of education or training, but not after attaining the age of twenty-three (23), is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a legitimate child; a legally adopted child; a stepchild who is a member of a qualified veteran's household or was a member at the time of the veteran's death; or an illegitimate child, but, as to the alleged father, only if acknowledged in writing signed by him or if he had, before his death, been judicially decreed to be the father of such child;

(12) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(13) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(14) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the North American continent, exclusive of Alaska;

(15) "Outside the continental United States" means any place elsewhere than as defined in subsection (12) of this section;

(16) "Bonus" and "Vietnam veterans' bonus" mean the compensation authorized by KRS 40.410 to 40.560;

(17) "Bonus claim" means a claim or potential claim for a Vietnam veterans' bonus; and

(18) "Claimant" means one who seeks to obtain payment of a bonus claim.

Section 2. KRS 40.430 is amended to read as follows:

No bonus shall be paid to any member of the armed forces of the United States who did only civilian work at civilian pay ***or***[~~,~~] who has received from another state a bonus similar to the bonus provided by KRS 40.410 to 40.560[~~, or who received the Kentucky veterans' bonus under the provisions of KRS 40.005 to 40.230 and 40.990~~].

Section 3. KRS 40.440 is amended to read as follows:

(1) Every person determined by the administrator to be a qualified veteran shall be paid the sum of fifteen dollars ($15.00) for each month and major fraction of a month of qualifying Vietnam era service, not to exceed in all the sum of three hundred dollars ($300), and the sum of twenty-five dollars ($25.00) for each month and major fraction of a month of such service which is qualifying Vietnam service, subject to an aggregate limit for all service in the sum of five hundred dollars ($500). Any qualified veteran who was medically evacuated from a location, service in which location constituted qualifying Vietnam service, shall receive the sum of five hundred dollars ($500.00), this sum to be in lieu of any other bonus for which said veteran may qualify under the provisions of KRS 40.410 to 40.560.

(2) If a person determined to have been a qualified veteran shall be deceased at the time payment of the bonus would otherwise be made to him, the amount of his bonus shall be paid to the first surviving beneficiary, if any, according to the order of priority defined in KRS 40.400(9) and if there be no surviving beneficiary, the bonus of such veteran shall lapse, and no payment thereof shall be made.

(3) A beneficiary, as defined in KRS 40.400(9), (10), (11), (12), and (13), of a person killed in the line of duty while serving in the armed forces of the United States during the period of eligibility, or who died of service-connected injury sustained while so serving, and who would otherwise have qualified for the bonus provided in subsection (1) of this section, shall be paid three hundred dollars ($300) if no part of the total service during the period was served outside the continental United States or five hundred dollars ($500) if any part of the total service during the period was served outside the continental United States. The provisions of subsection (1) of this section and the minimum period of service for entitlement to a bonus as established by KRS 40.400(5) or (6) shall not apply to these beneficiaries. However, this exception does not waive the respective maximums of three hundred dollars ($300) or five hundred dollars ($500) for each veteran, person killed in the line of duty while on active duty in the armed forces, or person who died as a result of service-connected injury sustained while on active duty in the armed forces. Payment shall be made to a beneficiary in the order of priority defined in KRS 40.400(9).

(4) Notwithstanding the provisions of subsections (1), (2) and (3) of this section, the amount paid to a qualifying veteran or a beneficiary of a qualifying veteran shall be the amount calculated under the provisions of subsections (1), (2) or (3) of this section, less the amount received by the veteran under the provisions of KRS 40.005 or KRS 40.010 through 40.990.

Section 4. KRS 40.460 is amended to read as follows:

(1) All applications for the bonus shall be submitted to the adjutant general, Commonwealth of Kentucky, in writing, upon forms made available for that purpose, and shall be accompanied by ***the*** [~~such~~] documentary evidence [~~as~~] prescribed by appropriate administrative regulations. Every application shall be certified under the penalties of perjury, and shall contain representations of the claimant [~~(~~]or, if he shall have been adjudged incompetent, or be an infant, of his committee or guardian[~~)~~], that:

(a) The facts therein stated are true to the best of his knowledge and belief;

(b) All documents submitted in support of the application are believed by the claimant to be genuine originals or copies, as the case may be, and that the claimant has no knowledge that the document has been superseded or cancelled;

(c) The claimant has not received from another state a bonus or compensation of a like nature as provided by KRS 40.410 to 40.560;

(d) [~~The claimant has not received the Kentucky veterans' bonus provided under KRS 40.005 to 40.230 and 40.990;~~

~~(e)~~] The claimant has neither paid nor agreed to pay, directly or indirectly, any compensation for assistance received in preparing and tendering the application; and

(e)[~~(f)~~] The claimant has knowledge of the fine and forfeiture provisions of KRS 40.410 to 40.560;

(2) The application form shall contain provision for, and each claimant shall elect, one (1) of the following choices:

(a) The claimant is eligible for and desires to receive a bonus payment; or

(b) The claimant is eligible for a bonus payment but requests that his payment be deposited into a veterans' program trust fund, which is hereby established, the proceeds and interest therefrom to be used for veterans' programs administered by the Department of Military Affairs.

Section 5. KRS 40.470 is amended to read as follows:

(1) No application shall be filed with or sent to the adjutant general before the first day of March, 1989.

(2) No application may be filed with or sent to the administrator after the ***thirty-first day of August*** [~~twenty-eighth day of February~~], 1990, but if an application is sent by mail, the adjutant general shall receive it if the postmark on the envelope shows date and time of mailing at or before midnight, central standard time, on or before the ***thirty-first day of August*** [~~twenty-eighth day of February~~], 1990.

(3) Applications tendered to the adjutant general otherwise than as provided in subsections (1) and (2) of this section shall not be eligible for consideration under KRS 40.410 to 40.560 and shall not be accepted. Each such application received by mail shall be returned to the sender, if a return address be given, together with notification of the reason for its return.

Section 6. KRS 40.560 is amended to read as follows:

(1) There shall be a board of review consisting of nine (9) persons who are residents and qualified voters of the Commonwealth, appointed by the Governor without limitation as to political affiliation, religion, race, sex, or past or present service in the armed forces, except that six (6) members of this board shall be veterans. The name of said board shall be "The Vietnam Veterans' Bonus Board of Review." The Governor shall designate a chairman and a secretary from among the membership.

(2) Three (3) members and no more shall constitute a board of review, and shall by concurrence of two (2) members decide any claim which comes before the board in the manner provided in KRS 40.520. The chairman of the board shall designate three (3) members to consider and decide each claim, having due regard for availability for service so that delay may be avoided.

(3) The chairman and secretary shall devote their full time to the affairs of the board and shall receive compensation at the rate to be fixed in accordance with personnel standards fixed by the commissioner of personnel until the functions of the board are performed and the board is dissolved as hereinafter provided. Other members of the board shall be compensated fifty dollars ($50.00) per diem, but only for actual time served in considering and deciding claims for veterans' bonuses pursuant to designation by the chairman. All members of the board shall be reimbursed for necessary travel to and from their places of residence, and in performance of duties pursuant to assignment, at the rate of eighteen cents (18) per mile.

(4) Each claim coming before the board shall promptly be considered and decided by the three (3) members designated for that purpose. In every case, the board shall either affirm the decision of the administrator, or determine that a veterans' bonus should be paid, and to what persons and in what amounts. No written opinions or recitations of reasons for any decision need be made. A statement of the decision made shall be signed by at least two (2) of the three (3) members designated to decide the claim, and upon concurrence of two (2) members, a decision shall be final and not subject to reconsideration.

(5) When, after ***September 1*** [~~March 1~~], 1990, the board of review shall have decided all cases coming before it for decision, the chairman shall report such fact to the Governor in writing. The Governor shall thereupon declare that the board of review is dissolved, and shall so notify the members, and the functions and duties of the board shall be deemed to have been fully performed.

Section 7. Any unexpended funds remaining at the close of fiscal year 1989-90 from the appropriations made to the Department of Military Affairs pursuant to the provisions of 1988 Kentucky Acts, Extraordinary Session, Chapter 6, Section 22, shall not lapse but shall be carried forward to fiscal year 1990-91, and such funds are hereby appropriated.

Section 8. Whereas, to insure continuity in the application process for the bonus provided for Vietnam Veterans under the provisions of KRS 40.410 to 40.560 and this Act, and to maximize the amount of time available for application for the bonus under the time constraints set out in this Act, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Title Amendment to HB 221 is as follows:

Amend printed copy of HB 221, Title Amendment, by amending the title to read:

"AN ACT relating to payment of a bonus to certain veterans who served during the Vietnam conflict and certain persons deriving from them, declaring an emergency and making an appropriation.

HB 255, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.170 is amended to read as follows:

(1) The revenue cabinet may grant a taxpayer other than a corporation a reasonable extension of time for filing his income return whenever in its judgment good cause exists, and shall keep a record of every such extension. Except in case of a taxpayer who is abroad, no extension shall be granted for more than six (6) months, and in no case for more than one (1) year.

(2) A corporation may be granted an extension of not more than six (6) months for filing its income return provided it timely requests ***the*** [~~such~~] extension before the due date of the return and ***pays, on or before the date the return was due, the amount properly estimated as its tax*** [~~, prior to the granting of an extension, pays an amount equal to either:~~

~~(a) The tax shown on the return of the corporation for the preceding taxable year, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of twelve (12) months; or~~

~~(b) Ninety percent (90%) of its liability for the taxable year. The liability shall be reduced by any estimated tax payments, overpayment(s) from prior year(s) or other prepayments which may be properly claimed as a credit~~].

(3) If the time for filing a return is deferred, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax ultimately assessed, but not previously paid, from the time the return was due until it is actually filed in the office of the cabinet.

Section 2. KRS 141.990 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may make an estimate of the net income from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of twenty-five percent of the amount of any deficiency tax assessed concerning ***the*** [~~such~~] failure or refusal to file a return or furnish any information. This penalty shall be in addition to all other applicable penalties in this section.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, [~~or fails to pay the tax imposed by this chapter within the time prescribed,~~] then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, five percent of the tax found to be due by the cabinet shall be added to the tax for each thirty days or fraction thereof that [~~either~~] filing the return [~~or paying the tax~~] is beyond the time prescribed or extended, but the total penalty shall not exceed twenty-five percent of the tax.

(3) If any taxpayer fails to pay the tax imposed by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, there shall be added to the tax found to be due by the cabinet one-half percent (0.5%) of the amount of the tax if the failure is for not more than one (1) month, with an additional one-half percent (0.5%) for each additional month or fraction thereof that payment of the tax is made beyond the time prescribed or extended, but the total penalty shall not exceed twenty-five percent (25%) of the tax.

(4) If any corporation granted an extension of time to file its income return under the provisions of KRS 141.170(2) fails to pay any remaining balance shown on the return by the extended due date of the return, or fails to pay, prior to the granting of the extension, an amount equal to either:

(a) The tax shown on the return of the corporation for the preceding taxable year, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and the preceding year was a taxable year of twelve (12) months; or

(b) Ninety percent (90%) of its liability for the taxable year after the liability is reduced by any estimated tax payments, overpayments from prior years or other prepayments which may be properly claimed as a credit, then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, the penalty provided for in subsection (3) of this section shall be imposed from the original due date of the return.

(5)[~~(3)~~] If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(6)[~~(4)~~] If any part of any deficiency is due to fraud with intent to evade tax fifty percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(7)[~~(5)~~] Any person required under the provisions of KRS 141.150 or 141.335 to furnish a statement required under that section who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner at the time and showing the information required under KRS 141.150 and 141.335, may for each such failure be subject to a civil penalty of ten dollars. Such penalty may be assessed and collected by the cabinet, and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110.

(8)[~~(6)~~] (a) Any employer required under the provisions of KRS 141.310, 141.315 or 141.330 to withhold taxes on wages, file returns, and make payment of amounts withheld to the cabinet, who fails to withhold such taxes, or to file such returns when due, or who fails to remit amounts collected to the cabinet when due, or when filing the returns understates the amount due shall, unless such failure to comply is shown to the satisfaction of the cabinet to be due to reasonable cause, be subject to a civil penalty equal to five percent per month or fraction thereof not to exceed twenty-five percent, of the amount of taxes that should have been properly withheld and paid over to the cabinet, or ten dollars ($10), whichever is greater, for each such failure. However, where such failure is shown to be due to reasonable cause the cabinet may reduce the penalty provided herein to an amount equal to five percent of the amount of taxes that should have been properly withheld and paid over to the cabinet but not to exceed one hundred dollars, or ten dollars ($10), whichever is greater, for each such penalty. Each penalty shall be assessed and collected by the cabinet and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return and payment are received within thirty days after the due date and the employer has no previous record of late filing or late payment within two years next preceding such due date.

(b) Any employer required to file a return under the provisions of KRS 141.330(1) when no tax should have been properly withheld, and who fails to file the same when due, shall be subject to a civil penalty of ten dollars ($10) for each violation. Such penalty shall be assessed and collected by the cabinet and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return is received within thirty days after the due date and the employer has no previous record of late filing within two years next preceding such due date.

(9)[~~(7)~~] Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay such declaration of estimated tax may be subject to a penalty of ten percent of any underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting applicable credits allowed by KRS 141.070, 141.300 and 141.310 from seventy percent of the tax liability as shown on the return for the taxable year. This subsection shall not apply to the taxable year in which the death of the taxpayer occurs nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305.

(10)[~~(8)~~] Any corporation required by KRS 141.042 to file a declaration of estimated tax and required to pay such declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044, may be subject to a penalty of ten percent of any installment underpayment or any installment not paid on time. Installment underpayment is the installment determined by subsection (1) of KRS 141.044, less the installment actually paid, based upon seventy percent of the income tax shown to be due on the final return for the year reduced by five thousand dollars ($5,000).

(11)[~~(9)~~] Any penalty imposed by subsections (1), (2), (3), (4), (5), (6), (7), or (8) of this section shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(12)[~~(10)~~] Every tax imposed by this chapter, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(13)[~~(11)~~] In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall upon conviction thereof be fined not less than five hundred dollars nor more than five thousand dollars, or confined in the penitentiary for not less than twelve months or more than five years, or both.

(14)[~~(12)~~] Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under KRS Chapter 141 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document shall be guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned not more than three years, or both, together with the costs of prosecution.

(15)[~~(13)~~] A return for the purpose of this section shall mean and include any return, declaration or form prescribed by the cabinet and required to be filed with the cabinet by the provisions of this chapter, or by the rules and regulations of the cabinet or by written request for information to the taxpayer by the cabinet.

Section 3. KRS 141.305 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.300 shall be paid as follows:

(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four (4) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year;

(b) If the declaration is filed after April 15 and not after June 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three (3) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year;

(c) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;

(d) If the declaration is filed after September 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before September 15 of the taxable year, the declaration shall be filed and estimated tax shall be paid on or before January 15 of the succeeding taxable year;

(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent of the total estimated tax for 1954.

(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.

(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(4) Payment of the estimated tax, or any installment thereof shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.

(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on or before January 15 of the succeeding taxable year; and if such an individual files a return on or before March 1 of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before January 31.

(6) The application of this section, KRS 141.300, and subsection ***(9)***[~~(7)~~] of KRS 141.990, to taxable years of less than twelve months shall be as prescribed in regulations promulgated by the department.

(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto.

Section 4. The provisions of this Act shall be effective for taxable years beginning on or after July 1, 1990.

The Committee on Counties and Special Districts reported **HB 191** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 191, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.555 is amended to read as follows:

(1) Any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account the board shall not accept employee payments until such time as funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employee contribution ratio if such member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Provided, that nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is a disability pension [~~which does not exceed five hundred dollars ($500) monthly~~] or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension [~~which does not exceed five hundred dollars ($500) monthly and~~] who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

The Committee on Economic Development and Tourism reported **HB 137** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 137, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 155.410 is amended to read as follows:

(1) The purposes of KRS 155.410 to 155.490 ***shall be*** [~~are~~] to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital investments.

(2) The investment program established by KRS 155.410 to 155.490, shall give investment preference to Kentucky businesses showing a potential for rapid growth. Insofar as possible, investments made in a Kentucky business through KRS 155.410 to 155.490 shall be used by that business to leverage additional capital investments from other sources.

(3) Twenty percent (20%) of the funds available for investment under the provisions of KRS 155.410 to 155.490 shall be ***used*** for investment in ***the following areas:***

(a) Agribusiness or agriculturally related ventures***; and***

(b) Tourism or tourist related ventures.

The Committee on Health and Welfare reported **HB 81**, with Committee Amendment attached thereto, **HB 112**, with Committee Substitute attached thereto, **HB 113**, with Committee Amendment attached thereto, **HB 126** and **HB 172** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 81, AN ACT relating to embalmers and funeral directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 316 IS CREATED TO READ AS FOLLOWS:

(1) Continuing education hours for credit may be compiled in the following areas:

(a) Cassette and audio-visual presentations;

(b) Professional seminars;

(c) Accredited schools participating in continuing education programs;

(d) Professional association-sponsored programs;

(e) Correspondence courses;

(f) Continuing education television series; or

(g) Other programs as approved by the board.

(2) Sponsors of continuing education programs shall be responsible for obtaining from the board accreditation for their respective continuing education programs.

(3) Sponsor means any person, school, association, company, corporation, or group who wishes to develop and present a continuing education program.

(4) Sponsors of continuing education programs shall submit a program schedule and outline to the board not less than thirty (30) days prior to the date of the program, including the following information:

(a) The name of the course;

(b) The name of the sponsoring organization;

(c) The objectives of the program;

(d) The number of hours over which the educational program will be presented and the dates presented;

(e) The names of the instructors and speakers and their educational background and other relevant qualifications;

(f) The location at which the program will be presented; and

(g) The name and address of the person authorized to certify attendance at the program.

(5) Board approval of continuing education programs shall be determined on the following basis:

(a) If the program is likely to contribute to the advancement and extension of professional knowledge and skill in the practice of funeral service;

(b) If the speakers, lecturers and others participating in the program are recognized by the board as being qualified in the field;

(c) If the program is available to all embalmers and funeral directors licensed in this state; and

(d) If any fees charged for the program are the same for non-members of any organization sponsoring the program. Any difference in fees charged to non-members, as opposed to members of the sponsoring organization, shall be reasonably and directly related to the sponsoring organization's expense in operating the program.

(6) The board shall give written notification of the approval or disapproval of a program to the sponsor within forty-five (45) days after receipt of the proposed educational program schedule and outline. Any program approved by the board shall be awarded an approval period by the board, during which the sponsor may offer the program as many times as desired as long as the board's standards are maintained. The board shall state the number of hours credit recognized for completion of the program.

(7) Any change in a program after approval is granted by the board shall be approved by the board. Failure to do so shall be grounds for revocation of approval.

(8) The educational program may be monitored by a member of the board or a person designated by the board for the purpose.

(9) Sponsors shall provide for the maintenance of the program schedule and outline and attendance records of educational programs for at least two (2) years following completion of any program.

(10) Any continuing education program conducted by a sponsor in another state that is approved for continuing education credit by a governmental agency of that state with licensure authority over embalmers and funeral directors in that state, similar to the licensure authority of the board, shall be exempt from the requirements of subsections (2) through (8) of this section. The board shall recognize attendance by licensees at the continuing education programs, and credit therefor, as recognized and approved by the governmental agency of that state. Licensees claiming credit for the continuing education programs conducted in other states shall comply with the requirements of subsection (11) of this section.

(11) Attendance at any continuing education program shall be certified to the board upon a form provided by the board and shall be submitted by each licensee at the time he makes application to the board for the renewal of his license. Each licensee shall be responsible for having the forms signed by the sponsor of any continuing education program for which credit is claimed, certifying that the licensee did attend the continuing education program for which credit is claimed. The board shall not approve any claim for credit for attendance at a continuing education program unless the licensee provides the signed certification of the sponsor stating that the licensee did attend the continuing education program for which credit is claimed.

(12) The board may maintain a list of sponsors providing programs to satisfy the continuing education requirement for licensees. This information may be made available to any licensee.

Section 2. KRS 316.130 is amended to read as follows:

(1) No license granted under this chapter shall be issued or renewed for a period exceeding one (1) year. Every license and renewal shall expire on July 31 following the date of its issuance unless sooner revoked or canceled.

(2) Every licensed embalmer and every licensed funeral director who desires to continue to practice shall have his license renewed by filing an application for renewal with the secretary of the state board each year within thirty (30) days next before the expiration of his license, upon blanks furnished by the board. He shall pay a renewal fee of *thirty dollars ($30)* [~~twenty dollars ($20)~~].

(3) *Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, every embalmer and every funeral director now or hereafter licensed in the Commonwealth of Kentucky shall, during each licensure year, attend a minimum of four (4) hours in a continuing education program or programs approved by the board. This continuing education requirement shall be effective for the licensure year beginning August 1, 1991. Upon application to the board, the board*

may exempt licensees from the continuing education requirements of this section if the applicant demonstrates that meeting the continuing education requirements of this section would work an undue hardship by reason of disability, illness, or other clearly mitigating circumstances. The board may use a portion of the annual license renewal fees for the purpose of contracting with accredited educational institutions, professional organizations, or other qualified persons, for the providing of educational programs that meet this continuing education requirement.

(4) Every licensed funeral establishment shall renew its license by filing an application for renewal with the secretary of the state board each year within thirty (30) days next before the expiration of the current license, on blanks furnished by the board. The renewal fee shall be fifty dollars ($50)

(5)[~~(4)~~] No license granted under this chapter shall be transferable.

The Committee Amendment No. 1 to **HB 81** is as follows:

Amend printed copy of **HB 81** on page 5, line 15, after the words "fee of" delete the underlining under the words "thirty dollars ($30)" and the bracketed part on lines 15 and 16.

On page 6, line 11, after (4), add "[~~3~~]"

HB 112, AN ACT relating to anabolic steroids.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

As used in this Act, "anabolic steroid" means a material, compound, mixture or preparation that contains an anabolic steroid that includes any of the following:

Chorionic gonadotropin

Clostebol

Dehydrochlormethyltestosterone

Ethylestrenol

Fluoxymesterone

Mesterolone

Metenolone

Methandienone

Methandro stenolone

Methyltestosterone

Nandrolone decanoate

Nandrolone phenpropionate

Norethandrolone

Oxandrolone

Oxymesterone

Oxymetholone

Stanozolol

Testosterone propionate

Testosterone-like related compounds

SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) No person shall possess or use an anabolic steroid without a valid prescription or drug order issued by a practitioner authorized to issue such prescription or order.

(2) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an anabolic steroid for:

(a) Enhancing performance in an exercise, sport, or game; or

(b) Hormonal manipulation intended to increase muscle mass, strength, or weight without a medical necessity.

(3) It shall be unlawful for any person who is not a practitioner or lawful manufacturer of anabolic steroids to:

(a) Knowingly or intentionally manufacture or deliver an anabolic steroid, pure or adulterated; or

(b) Possess, with intent to manufacture or deliver, an anabolic steroid.

Section 3. KRS 217.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 217.350 shall be fined not more than twenty-five dollars ($25.00).

(2) Any person who violates any of the provisions of subsection (2) of KRS 217.390 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), or imprisoned for not more than fifty (50) days, or both.

(3) Except as provided in subsections (1) and (2) of this section, any person who violates any of the provisions of KRS 217.280 to 217.390 or who refuses to comply with any lawful order or requirement duly made in writing as provided in KRS 217.380, shall, for the first offense, be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both, and for any subsequent offense shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200), or imprisoned for not more than ninety (90) days, or both. Each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions, as ordered under KRS 217.380, shall be a separate offense.

(4) Any person who violates any of the provisions of KRS 217.400 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100).

(5) Any person who violates any of the provisions of KRS 217.420 to 217.440 shall be fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(6) Any person who violates any of the provisions of KRS 217.450 shall be fined one hundred dollars ($100).

(7) Any person who violates any provision of KRS 217.801 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(8) Any person who violates any of the provisions of KRS 217.808 to 217.812, or any rule or regulation adopted thereunder, or who operates a vending machine company or vending machine commissary without a permit as prescribed in KRS 217.808 to 217.812, or who fails to comply with any order of the cabinet or of any local health department issued pursuant thereto shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

(9) Wilful noncompliance with KRS 217.816 shall constitute a violation and shall subject the violator to a fine of not over fifty dollars ($50.00) for the first offense and not over two hundred dollars ($200) for a subsequent offense.

(10) Any person who wilfully fails to comply with the provisions of KRS 217.816 to 217.826 shall be guilty of a violation and shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

(11) Any person who violates any of the provisions of KRS 217.177 shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than five (5) nor more than thirty (30) days, or both.

(12) Any manufacturer or distributor who dispenses, sells, or otherwise provides to any other person any legend drug in solid dosage form that fails to comply with the requirements of KRS 217.907 to 217.915 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(13) Any person who violates Section 2 of this Act shall be guilty of a class C felony.

The Committee Substitute to **HB 112** is as follows:

HB 112, AN ACT relating to anabolic steroids.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Human Resources the controlled substances listed in this section are included in schedule III:

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid; chlorhexadol; glutethimide; lysergic acid; lysergic acid amide; methyprylon; sulfondiethylmethane; sulfonethylmethane; sulfonmethane.

(2) Nalorphine.

(3) Pentazocine (parenteral or injectable form only).

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than 300 milligrams of ethylmorphine, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(i) The Cabinet for Human Resources may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(5) Any material, compound, mixture, or preparation containing any quantity of any of the following anabolic steroid substances, or any isomer, ester, salt or derivative thereof:

(a) Chorionic gonadotropin;

(b) Clostebol;

(c) Dehydrochlormethyltestosterone;

(d) Ethylestrenol;

(e) Fluoxymesterone;

(f) Mesterolone;

(g) Methandienone;

(h) Methandrostenolone;

(i) Methenolone;

(j) Methyltestosterone;

(k) Nandrolone;

(l) Norethandrolone;

(m) Oxandrolone;

(n) Oxymesterone;

(o) Oxymetholone;

(p) Stanozolol; and

(q) Testosterone.

Section 2. KRS 218A.140 is amended to read as follows:

(1) No person shall traffic in any controlled substance except as authorized in this chapter.

(2) No person shall possess any controlled substance except as authorized in this chapter.

(3) No person shall dispense, prescribe, distribute, or administer any controlled substance except as authorized in this chapter.

(4) (a) No person shall obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge, or by the forgery or alteration of a prescription, or by the concealment of a material fact, or by the use of a false name or the giving of a false address.

(b) No person shall willfully make a false statement regarding any prescription, order, report, or record required by this chapter.

(c) No person shall, for the purpose of obtaining a controlled substance, falsely assume the title of or represent himself to be a manufacturer, wholesaler, distributor, repacker, pharmacist, practitioner, or other authorized person.

(d) No person shall make or utter any false or forged prescription.

(e) No person shall affix any false or forged label to a package or receptacle containing any controlled substance.

(5) No person shall possess, manufacture, sell, dispense, prescribe, distribute, or administer any counterfeit substance.

(6) No person shall advertise through any media other than a professional or trade publication any controlled substance by either its "trade name" or by its generic or formulary name.

(7) No person shall prescribe, order, distribute, supply, or sell an anabolic steroid for:

(a) Enhancing performance in an exercise, sport, or game; or

(b) Hormonal manipulation intended to increase muscle mass, strength, or weight without a medical necessity.

(8) No person shall possess or use an anabolic steroid without a valid prescription or drug order issued by a practitioner authorized to issue such prescription or order.

Section 3. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense, shall be confined in the penitentiary for not less than one (1) year nor more then five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(d) Any person who knowingly and unlawfully manufactures, sells or possesses with intent to sell hashish shall be guilty of a Class D felony.

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests five (5) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be

confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the Cabinet for Human Resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the Cabinet for Human Resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates; in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the Cabinet for Human Resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who knowingly and unlawfully possesses lysergic acid diethylamide or phencyclidine for his own use shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(12) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished

by not less than one (1) year nor more than three (3) years' imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(13) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(14) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(15) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

(16) Any person who unlawfully traffics in a controlled substance classified in schedules I, II, III, IV or V in any building used primarily for classroom instruction in a school or on any premises located within one thousand (1,000) yards of any school building used primarily for classroom instruction shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, unless a more severe penalty is set forth in this chapter, in which case the higher penalty shall apply. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.

(17) Any person who commits a criminal conspiracy as defined in KRS 506.040 to traffic in a controlled substance shall be subject to the same penalties for trafficking in that controlled substance as specified in this section.

(18) Any person who violates Section 2 of this Act with respect to a controlled substance included in Section 1(5) of this Act, shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

HB 113, AN ACT relating to medical care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly finds that all adults have the fundamental right to control the decisions relating to their own medical care, including the decision to have medical or surgical means or procedures calculated to prolong their lives provided, withheld or withdrawn.

(2) In order that the dignity, privacy and sanctity of adults with terminal conditions may be respected even after they are no longer able to participate actively in decisions concerning their medical care, the general assembly hereby declares that the laws of the Commonwealth of Kentucky shall recognize the right of an adult to make a written declaration pursuant to the provisions of Section 3 of this Act, instructing the adult's physician to withhold or withdraw life-prolonging treatment in the event such person is diagnosed as having a terminal condition.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Adult" means a person eighteen (18) years of age or older and who is of sound mind.

(2) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(3) "Declaration" means a witnessed document in writing, voluntarily made by the declarant in accordance with the requirements of Section 3 of this Act.

(4) "Health care facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care, and licensed pursuant to KRS Chapter 216B.

(5) "Life-prolonging treatment" means any medical procedure, treatment or intervention which:

(a) Utilizes mechanical or other artificial means to sustain, prolong, restore or supplant a spontaneous vital function or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition; and

(b) When applied to a patient in a terminal condition, would serve only to prolong the dying process. "Life-prolonging treatment" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain or for nutrition or hydration.

(6) "Physician" means a person licensed to practice medicine in the Commonwealth of Kentucky.

(7) "Qualified patient" means an adult patient of sound mind who has:

(a) Made a declaration in accordance with this Act;

(b) Been diagnosed by the attending physician and one (1) other physician as having a terminal condition, with said condition noted by both in the patient's medical record; and

(c) Who is not known to be pregnant.

(8) "Terminal condition" means a condition caused by injury, disease or illness which, to a reasonable degree of medical probability, as determined pursuant to subsection (5) of this section, solely by the qualified patient's attending physician and one (1) other physician, is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An adult may, prior to or after having been diagnosed as having a terminal condition, make a written declaration directing the withholding or withdrawal of life-prolonging treatment.

(2) Except as provided in Section 7 of this Act, a declaration made pursuant to this Act shall be honored by a declarant's family, regular family physician or attending physician, and any health care facility of or in which the declarant is a patient. A declaration made pursuant to this Act shall be substantially in the following form, and may include other specific directions. Should any other specific directions be held by a court of appropriate jurisdiction to be invalid, such invalidity shall not affect the declaration.

Declaration

Declaration made this _____ day of ________, ____ (month, year). I, __________________, wilfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare:

If at any time I should have a terminal condition and my attending and one (1) other physician in their discretion, have determined such condition is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process, I direct that such treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain or for nutrition or hydration.

In the absence of my ability to give directions regarding the use of such life-prolonging treatment, it is my intention that this declaration shall be honored by my attending physician and my family as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of such refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

STATE OF KENTUCKY)

)Sct.

COUNTY OF ____________________)

Before me, the undersigned authority, on this day personally appeared _________________, Living Will Declarant, and ____________________ and __________________, known to me to be witnesses whose names are each signed to the foregoing instrument, and all these persons being first duly sworn, ______________________, Living Will Declarant, declared to me and to the witnesses in my presence that the instrument is the Living Will Declaration of the declarant and that the declarant has willingly signed and that such declarant executed it as a free and voluntary act for the purposes therein expressed; and each of the witnesses stated to me, in the presence and hearing of the Living Will Declarant, that the declarant *signed the declaration as witness and to the best of such witness's knowledge, the Living Will Declarant was eighteen (18) years of age or over, of sound mind and under no constraint or undue influence.*

____
Living Will Declarant

____
Witness

____
Address

____
Witness

____
Address

Subscribed, sworn and acknowledged to before me by ________________ and ________________, Living Will Declarant, and subscribed and sworn before me by ________________ and ________________, witnesses, on this the ____ day of ____ (year).

____
Notary Public State At Large

____
Date my commission expires

(3) A written declaration shall be signed by the declarant in the presence of two (2) subscribing witnesses. In no instance shall any of the following be a witness to any declaration made under this Act:

(a) A blood relative who would be a beneficiary of the declarant; or

(b) A beneficiary of the declarant under descent and distribution statutes of the Commonwealth; or

(c) An employe of a health care facility in which the declarant is a patient; or

(d) An attending physician of the declarant; or

(e) Any person directly financially responsible for the declarant's health care.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

It shall be the responsibility of the declarant to provide for notification to the declarant's attending physician that a declaration has been made. In the event the declarant is comatose, incompetent or otherwise mentally or physically incapable, any other person may notify the attending physician of the existence of a declaration. An attending physician who is so notified shall promptly make the declaration or a copy of the declaration a part of the declarant's medical records.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A declaration may be revoked by:

(a) A writing declaring an intention to revoke, which writing shall be signed and dated by the declarant; or

(b) An oral statement by the declarant of an intent to revoke; or

(c) The declarant or by some person in the declarant's presence and at the declarant's direction, by cutting, tearing, burning, obliterating, canceling, or destroying the declaration, or the signature thereto, with the intent to revoke.

(2) An oral statement by the declarant to revoke a declaration shall override any previous written declaration made.

(3) Any such revocation shall become effective immediately. An attending physician or health care facility shall not be required to administer treatment in accordance with the revocation until such time as notice of the revocation is received. Upon receiving notice of the revocation, the attending physician or health care facility shall record, in the declarant's medical record, the time, date and place of such notice receipt. No physician or health care facility shall be subject to any liability for acting in good faith upon the knowledge, or lack thereof, of the existence or revocation of a declaration.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A health care facility, physician or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-prolonging treatment from a patient in a terminal condition in accordance with this Act. A person who authorizes the withholding or withdrawal of life-prolonging treatment from a patient in a terminal condition in accordance with a declaration shall not be subject to criminal prosecution or civil liability for such action.

(2) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating the withholding or withdrawal of life-prolonging treatment did not, in good faith, comply with the provisions of this Act. A declaration made in accordance with this Act shall be presumed to have been made voluntarily and validly executed unless the attending physician or health care facility has actual knowledge to the contrary.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Where an individual has been diagnosed as having a terminal condition and has executed a declaration, prior to or at the time of admission to a health care facility, the individual or the family or guardian of the individual shall inform the attending physician and health care facility of the existence of a declaration. An attending physician or health care facility which refuses to comply with the declaration of a qualified patient shall immediately inform the patient and the family or guardian of the patient of such refusal. No physician or health care facility which refuses to comply with the declaration of a qualified patient shall impede the transfer of such patient to another physician or health care facility which will comply with the declaration. In cases where the patient, the family, or the guardian of the patient, has requested and authorized a transfer, the transferring attending physician and health care facility shall supply the patient's medical records and other information or assistance, as may be medically necessary for the continued care of the patient, to the receiving physician and health care facility.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed to condone, authorize or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act to end life other than to permit the natural process of dying.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The withholding or withdrawal of life-prolonging treatment from a qualified patient in accordance with the provisions of this Act shall not, for any purpose, constitute a suicide. Nor shall the making of a declaration pursuant to this Act affect the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated by the withholding or withdrawal of life-prolonging treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(2) No physician, health care facility, or other health care provider shall require any person to make a declaration as a condition of receiving health care services. No contract for health insurance under KRS 304.5-040, disability insurance, credit health insurance or insurance under nonprofit hospital, medical, surgical, dental and health service corporation, self-insured private employer group plan, or health maintenance organization as defined in KRS Chapter 304 shall require any person to make a declaration as a condition of being insured for health care services; neither shall any of the aforementioned health insurance contracts or plans be legally impaired or invalidated in any manner by the making of a declaration or the withholding or withdrawal of life-prolonging treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) This Act creates no presumption concerning the intention of an adult who has revoked or has not executed a declaration with respect to the use, withholding, or withdrawal of life-prolonging treatment in the event of a terminal condition.

(2) This Act shall not affect the right of an adult to make decisions regarding the use of life-prolonging treatment, so long as the adult is able to do so, or impair or supersede any right or responsibility that an adult has to effect the withholding or withdrawal of medical care.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person who willfully conceals, cancels, defaces, obliterates, or damages the declaration of another without the declarant's consent or who falsifies or forges a revocation of the declaration of another, thereby causing life-prolonging treatment to be utilized in contravention of the previously expressed intent of the patient shall be civilly liable.

(2) Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-prolonging treatment, contrary to the wishes of the declarant, and thereby, because of such act, directly cause life-prolonging treatment to be withheld or withdrawn and death to be hastened, shall be guilty of a Class B felony.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Living Will Act."

The Committee Amendment No. 1 to **HB 113** is as follows:

Amend printed copy of **HB 113**, on page 5, line 11,

After the word "***pregnancy***" by inserting the following:

"***and I shall be provided life-prolonging treatment until the birth of my infant***"

HB 126, AN ACT establishing a birth defects registry and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that birth defects, stillbirths, and miscarriages represent problems of significant health importance about which too little is known; that such conditions lead to severe mental anguish on the part of parents and frequently to high medical care costs; and that a system to obtain more information about these conditions could result in development and implementation of preventative measures to decrease their incidence and prevalence in the future. Therefore, it is the intent of the General Assembly to:

(1) Provide information on the incidence, prevalence and trends of birth defects, stillbirths, and miscarriages;

(2) Provide information as to the possible causes of birth defects, stillbirths, and miscarriages; and

(3) Develop prevention strategies for reducing the incidence of birth defects, stillbirths, and miscarriages.

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Commission for Handicapped Children shall establish and maintain, through its executive director, a birth defects registry that will provide a system for the collection of information concerning birth defects, stillbirths, and miscarriages. In establishing the system, the commission, through its executive director, may require general acute care hospitals licensed under the provisions of KRS Chapter 216B to maintain a list of patients up to age five (5) years, diagnosed with any birth defect as incorporated within the World Health Organization's International Classification of Diseases — 9th Revision and any subsequent revisions — diagnostic code categories 740 through 759.9, and all women discharged with a diagnosis of stillbirth or miscarriage. The list shall be made available to commission staff upon request and shall be used solely for purposes provided for in this Act.

(2) The executive director may require general acute care hospitals and free standing birthing centers licensed under the provisions of KRS Chapter 216B to make available to commission staff the medical records of any patients who have been diagnosed with any birth defect or who were discharged with a diagnosis of stillbirth or miscarriage as provided in this section.

(3) The system may cover all or any part of the Commonwealth, depending on funding and other appropriate considerations, including an assessment of the need to obtain the information and the ability of the commission to utilize the information for the purposes of this Act.

(4) The commission may, subject to the provisions of KRS Chapter 13A, issue administrative regulations necessary to implement the provisions of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The executive director of the commission shall appoint an advisory committee to advise on the implementation of this Act. The advisory committee shall have representation from the disciplines of obstetrics and gynecology, pediatrics, genetics, epidemiology, biostatistics, hospital administration, and at least one (1) parent of a child with a birth defect. Other disciplines may be represented at the discretion of the executive director and as need dictates.

(2) If the commission finds it necessary to collect information from sources other than general acute care hospitals and free standing birthing centers, the executive director shall first consult with the advisory committee.

SECTION 4. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) All information collected and analyzed pursuant to this Act shall be held confidential insofar as the identity of the individual patient is concerned. Staff of the commission may use the information to make referral for medical care and any other service deemed necessary by the parents of a child with a birth defect.

(2) Access to information assembled by the birth defects registry shall be limited to the staff of the commission and to qualified persons or organizations with a valid scientific interest as determined by the executive director of the commission, who are engaged in demographic, epidemiological or other similar studies related to health and health care provision and who agree, in writing, to maintain confidentiality.

(3) The commission shall maintain an accurate record of all persons who are given access to the information in the system. The record shall include: the name of the person authorizing access; name, title and organizational affiliation of persons given access; dates of access; and the specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the commission.

(4) Nothing in this section shall prohibit the publishing by the commission of statistical compilations relating to birth defects, stillbirth, or miscarriage which do not in any way identify individual cases or individual sources of information.

Section 5. KRS 200.490 is amended to read as follows:

(1) Except as provided under Sections 1 through 4 of this Act, all information as to medical data, personal facts, and circumstances obtained by the commission for handicapped children staff shall constitute privileged communications, shall be held confidential and shall not be divulged without the consent of the father, mother, guardian, person who committed the child, or the patient involved, except as may be necessary to provide additional services to children through other medical, welfare or service agencies and institutions. ***The*** [~~Such~~] information may be disclosed in summary, statistical or other form which does not identify particular individuals.

(2) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under this Act or who uses information provided under this Act in a manner other than that approved by the committee for the protection of human subjects pursuant to Section 4 of this Act may be denied further access to any confidential information maintained by the commission. That person shall also be subject to a civil penalty of five hundred dollars ($500). The penalty provided in this subsection shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of the commission or any person.

Section 6. To carry out the purposes of this Act, there is appropriated to the Commission for Handicapped Children out of the general fund in the State Treasury the sum of $157,800 for the 1990-91 fiscal year and $149,700 for the 1991-92 fiscal year.

HB 172, AN ACT relating to child abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report alleging abuse or neglect by a parent, guardian or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report. The cabinet shall investigate the matter immediately and within forty-eight (48) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

(2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports.

If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. ***The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.***

(3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(4) (a) If, after receiving the report, the law enforcement officer, the cabinet or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) ***If*** [~~In the event~~] a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into [~~such~~] protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

The Committee on Labor and Industry reported **HB 76**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 76, AN ACT relating to the regulation of electrical occupations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Housing, Buildings and Construction, with advice from the Electrical Advisory Committee, shall select and approve an examination to be used in determining the competency of electrical contractors for local licensure. The examination selected and approved shall be a nationally recognized examination which has been determined through proper validation techniques to measure successfully an individual's competency to perform electrical contracting work.

(2) An electrical contractor who achieves a passing score on the approved electrical contractor examination administered by the department, upon payment of the requisite fees, shall be issued an electrical contractor examination certificate. This certificate shall be accepted by any city or county requiring an electrical contractor license, as evidence of satisfactory completion of the electrical contractor examination requirement contained in KRS 227.490.

(3) An electrical contractor who is licensed by a city or county and has successfully passed an electrical contractor examination at the local level, may apply to the department for an electrical contractor examination certificate. If the examination taken was the department-approved examination, the department shall issue a certificate upon verification of a passing score and the payment of the certificate fee. If the examination taken was not the department-approved examination, the department shall evaluate the examination taken and shall issue a certificate only if a determination is made that the examination taken is substantially equivalent to the department-approved examination.

(4) The department shall offer the electrical contractor examination on a regularly scheduled basis in Frankfort. The department shall also offer the examination in other parts of the state a minimum of two (2) times per year.

(5) The department shall collect and compile reports on disciplinary actions against licensed electrical contractors submitted by cities and counties. The department shall publish a quarterly report of these actions and transmit a copy to each city or county that licenses electrical contractors. The department shall also make this information available to cities or counties upon request.

(6) The department may promulgate reasonable administrative regulations necessary for the administration of this section, including the establishment of reasonable fees.

Section 2. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(2) "Electrician" means any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(3) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(4) "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the national electrical code incorporated in the uniform state building code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky***; and***

(5) "Department" means the Department of Housing, Buildings and Construction.

Section 3. KRS 227.480 is amended to read as follows:

(1) A city or county shall, ***according to*** [~~when~~] the uniform state building code as it pertains to the plan review ***and inspection*** responsibilities of local governments [~~takes effect~~], require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. [~~A city or county may require such permits and inspections prior to the time when the uniform state building code local government plan review responsibilities take effect.~~]

(2) ***A city or county or the state shall not issue a permit unless proof is submitted that the applicant has complied with workers' compensation, unemployment insurance, and income tax withholding requirements according to pertinent state laws and regulations. The city or county shall also require proof that a general liability insurance policy of not less than two hundred fifty thousand dollars ($250,000) has been obtained and is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of an electrical contractor license.***

(3) A city or county may appoint and fix the compensation of city or county electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.

(4)[~~(3)~~] Reasonable standards for the construction, alteration and repair of any electrical wiring shall be those adopted in the uniform state building code, ***as*** [~~after said code is~~] promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the national electric code. These standards shall be used by the electrical inspector in making his inspections.

Section 4. KRS 227.490 is amended to read as follows:

(1) A city or county may require all electrical contractors and electricians, except those who have had at least five (5) years of experience as an electrical contractor ***or*** [~~and/or~~] electrician, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all [~~nonresident~~] electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(2) ***A city or county that requires the examination of electrical contractors for licensure, shall administer the electrical contractor examination selected and approved by the Department of Housing, Buildings and Construction as required in Section 1 of this Act.***

(3) A city or county that requires the examination of electrical contractors for licensure, shall accept an electrical contractor examination certificate as evidence that an applicant for an electrical contractor license has successfully met the examination requirement of subsection (1) of this section.

(4) The examining board shall be composed of seven (7) members appointed by the city or the county and in such instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of each local government which is party to the cooperative agreement. ***The*** [~~Such~~] cooperative agreement shall conform to the provisions of KRS Chapter 65. The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors and one (1) utility company official. No appointee shall serve more than two (2) consecutive years.

(5)[~~(3)~~] The members of the examining board shall serve without salary.

(6)[~~(4)~~] In order to administer KRS 227.450 to 227.500, the board may issue***, renew, suspend*** and revoke licenses; conduct and make regulations for conducting examinations of applicants; govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may adopt any other reasonable regulations to administer KRS 227.450 to 227.500.

(7)[~~(5)~~] Electrical contractors and electricians may be required to pay a reasonable fee before issuance ***or renewal*** of a license to them.

(8) A city or county shall report to the department within thirty (30) days of the action taken, any suspension, revocation or any other disciplinary action taken against a licensed electrical contractor. The city or county shall also provide any other information on disciplinary actions requested by the department.

Section 5. KRS 227.500 is amended to read as follows:

A city or county may fix as a penalty for the violation of any ordinance or resolution passed under the provisions of KRS 227.200 to 227.500, a fine of not less than ***twenty-five dollars ($25)*** [~~ten dollars ($10.00)~~] nor more than ***two hundred fifty dollars ($250)*** [~~one hundred dollars ($100)~~], or imprisonment for not more than ***ninety (90)*** [~~fifty (50)~~] days, or both.

Section 6. KRS 227.530 is amended to read as follows:

(1) There is hereby created an Electrical Advisory Committee which shall be attached to the Department of Housing, Buildings and Construction for administrative purposes. The committee shall be constituted as follows:

(a) Two (2) members chosen from public utility companies;

(b) Two (2) members who are electricians [~~or engaged in the business of electrical contracting~~];

(c) Two (2) members who are certified electrical inspectors, one of whom shall be employed by a governmental entity and the other who shall be an independent contractor engaged in the business of inspecting electrical installations; [~~and~~]

(d) Two (2) members who are licensed professional electrical engineers***; and***

(e) Two (2) members who are engaged in the business of electrical contracting.

(2) Committee members shall be appointed by the Governor for four (4) year terms[~~, except that initially two (2) shall be appointed for two (2) year terms; two (2) shall be appointed for three (3) year terms; and four (4) shall be appointed for four (4) year terms~~]. No committee member shall be appointed for more than one (1) successive term.

(3) The committee shall meet at least quarterly or upon request of the department for the purpose of considering matters relating to electrical installations and electrical inspections. The committee shall make recommendations to and otherwise advise the department on these matters.

(4) All committee members shall be compensated for expenses incurred in the conduct of Commonwealth business ***and in addition shall receive fifty dollars ($50) per diem compensation.***

The Committee Amendment No. 1 to **HB 76** is as follows:

Amend printed copy of **HB 76** on page 4, lines 20 through 26, and on page 5, lines 1 through 4, by deleting subsection (2) in its entirety and by inserting in lieu thereof the following:

(2) ***A city or county or the state shall not issue a permit unless the applicant submits, through an affidavit***

or other means prescribed by the city, county or state, that he has complied with workers' compensation and unemployment insurance laws and regulations. The city or county shall also require the applicant to submit proof in the manner prescribed above that he has obtained a general liability insurance policy of not less than two hundred fifty thousand dollars ($250,000) which is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of an electrical contractor license. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration or repairs of any electrical wiring on their own premises.

The Committee on Agriculture and Small Business reported **HB 140** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 140, AN ACT relating to small business incubators and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means commissioner of the Department of Business Development;

(2) "Department" means Department of Business Development;

(3) "Small business incubator" or "incubator" means a facility which leases space and provides business support services for new and expanding non-retail small businesses; and

(4) "Sponsor" means a local unit of government, an educational institution, a nonprofit corporation or a for-profit corporation which desires to establish and operate a small business incubator and makes application for an incentive grant consistent with the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) There is established under the department a program, to be known as the small business incubator program, to provide incentive grants to selected sponsors to establish and operate small business incubators. A grant shall not exceed two hundred thousand dollars ($200,000) or fifty percent (50%) of total estimated project costs, whichever is less. An incubator sponsor shall at least equal in cash or real estate value any grant made and contributions by state agencies shall not be included in matching the grant.

(2) Grants awarded shall be used only for the acquisition of land and existing buildings, the rehabilitation or construction of buildings or other facilities and the purchase of equipment and furnishings which are necessary for the creation and operation of the incubator. Grant money may be used for leasing a facility only if the sponsor intends to purchase the facility and the purchase arrangement is contained in the lease agreement.

(3) If an incubator facility is sold or the facility is changed to a use other than an incubator during the first five (5) years of operation, the sponsor shall remit to the state the amount of the grant, prorated.

(4) The department may also award grants to existing incubators to assist in funding special projects designed to enhance business support services provided for tenants. A special project grant shall not exceed ten thousand dollars ($10,000) and the incubator making application shall match the amount awarded dollar for dollar. The department shall, by administrative regulation, establish criteria for reviewing and approving special project grants. The total amount awarded each year for special project grants shall not exceed thirty-five thousand dollars ($35,000).

(5) The department shall promulgate administrative regulations containing policies and procedures necessary for the effective implementation and administration of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) Any sponsor who applies for a small business incubator incentive grant, shall prepare and submit to the department a detailed business plan as part of the application process. The business plan shall include, but shall not be limited to, the following information:

(a) Documentation of the need for the incubator in the geographic area being served;

(b) Projected costs for the establishment of the incubator, including all purchase, renovation and construction costs associated with the site and structures;

(c) Funding plan showing the total amount of funding necessary and identifying the sources of the funding; and

(d) Annual operating budget containing estimated income and expenditures, as follows:

1. Income shall include estimated rental fees, estimated local cash subsidies, the value of in-kind services, anticipated grants from other sources and any other identified sources of income;

2. Expenditures shall include estimated debt service and financing costs, estimated maintenance and utility costs, estimated personnel costs and the estimated cost of providing support services;

(e) Description of the support services to be provided by the incubator and a demonstration of the ability to provide or arrange for the provision of these services;

(f) Demonstration of the availability of and commitment of operating capital for a minimum of three (3) years;

(g) Market study to substantiate the potential for sustained use of the incubator facility and a recruitment plan detailing the criteria and methods by which suitable businesses shall be recruited and selected for the incubator;

(h) Community support for the incubator as evidenced by the degree to which there is broad-based community representation on the sponsor's governing body and in the decision-making process;

(i) Job description for the facility director position, minimum qualifications for the position and proposed methods for recruiting qualified candidates; and

(j) Other information the department may require in order to effectively evaluate applications.

(2) The department shall review applications received and shall evaluate applications on the following criteria:

(a) Economic impact of the incubator on business development and job creation in the area served;

(b) Overall feasibility of the incubator and soundness of the business plan;

(c) Level of local funding and commitment of funding sources;

(d) Ability of the sponsor to attract a competent facility director, to effectively operate the incubator, and to provide needed support services; and

(e) Degree of community support and involvement in the project.

SECTION 4. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

The department shall compile information and, no later than July 1 of each odd-numbered year, shall submit to the Legislative Research Commission a comprehensive report on small business incubator development and operation in the Commonwealth. The report shall identify any problem areas and recommend legislative changes to insure a more effective and efficient small business incubator program. .

Section 5. There is appropriated $400,000 for fiscal year 1990-91 and $400,000 for fiscal year 1991-92 to fund small business incubator incentive grants as provided in this Act.

Calendar

HB 31 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 151, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 151**. Agreed.

Representative Cyrus moved that **HB 151**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 17, 1990 roll call on **HB 151** - Appendix.)

HB 151, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 151**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 152, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 152**.

Representative Cyrus moved that **HB 152** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See January 17, 1990 roll call on **HB 152** - Appendix.)

HB 152 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 152** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 187 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 187** be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See January 17, 1990 roll call on **HB 187** - Appendix.)

HB 187 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 187** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HCR 4** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 17, 1990 roll call on **HCR 4** - Appendix.)

HCR 4 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HCR 4** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 9 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HCR 9** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 17, 1990 roll call on **HCR 9** - Appendix.)

HCR 9 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HCR 9** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HB 31** and **HB 87** have been posted for passage in Orders of the Day, January 18, 1990.

Introduction of Bills and Resolutions

HB 324, by Representative Walker: AN ACT relating to health care facilities.

HB 325, by Representative Arnold: AN ACT relating to surveys.

HB 326, by Representative Arnold: AN ACT relating to county surveyors.

HB 327, by Representatives Jackson, Long and Cyrus: AN ACT relating to the compensation of sheriffs.

HB 328, by Representative Geveden: AN ACT relating to the Mississippi River Parkway Commission.

HB 329, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 330, by Representatives Keith, Maggard, Todd, Ford, Turner, Allen, Altman, Lefevers, Napier, Cyrus, Walker, P. Richardson, Gedling, Blevins, J. Harper, Bentley and Siler: AN ACT relating to motor vehicle registration.

HB 331, by Representative R. Smith: AN ACT relating to crimes and punishments.

HB 332, by Representatives Kerr and Priddy: AN ACT relating to the juvenile code.

HB 333, by Representatives Gregory, Ark, Walker, Ford, Turner and Casebier: AN ACT relating to crimes and punishments.

HR 46, by Representative Cyrus: A RESOLUTION honoring Thelma Hicks.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 97, HB 222.**

Banking and Insurance: **HB 268.**

Natural Resources and Environmental Protection: **HB 239.**

Economic Development and Tourism: **HB 128, HB 242.**

Health and Welfare: **HB 86.**

Education: **HB 237, HB 256, HB 300.**

Representative McElroy moved that the rules be suspended to act upon a Resolution.

Representative McElroy moved the adoption of the following **HR 44**:

HR 44, A RESOLUTION condemning the kidnapping and brutalization of Sister Dianna Ortiz.

WHEREAS, as an Ursuline Sister of Mount Saint Joseph in Maple Mount, Kentucky, Dianna Ortiz worked diligently for nine years in our Commonwealth teaching kindergarten at Blessed Mother School in Owensboro and Immaculate Conception School in Hawesville; and

WHEREAS, she followed her heart to accept her spiritual calling, and for the past two years Sister Dianna Ortiz has dedicated her life to working as a religious educator in the village of San Miguel Acatan in Guatemala; and

WHEREAS, while engaged in prayerful meditation, on the fateful day of November 2, 1989, Sister Dianna Ortiz was abducted from the religious haven of the Belene Sisters Retreat House in Antigua, Guatemala; and

WHEREAS, Sister Dianna Ortiz was threatened with a pistol and hand grenade and told that innocent people would die if she raised an outcry; and

WHEREAS, in order to preserve the lives of those to whom she committed herself in service, Sister Dianna Ortiz stoically endured the unspeakable horrors of more than twenty-four hours of physical and mental torture; and

WHEREAS, Sister Dianna Ortiz was viciously blindfolded and imprisoned in a dark room with others whose screams for mercy tormented her psyche; and

WHEREAS, her body was savagely mutilated more than seventy-five times with a smouldering cigarette; and

WHEREAS, Sister Dianna Ortiz was subjected to heinous sexual abuse by her barbaric captors before her daring and heroic escape; and

WHEREAS, there have been no satisfactory efforts by the Guatemalan government to ascertain the identity of the party responsible for this shameless, criminal, and inhumane misconduct;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does vehemently condemn the senseless vulgarity and wanton disregard for human dignity of the perpetrators responsible for the torture and assault of Sister Dianna Ortiz.

Section 2. That the members of this august body, with grateful reverence, praise the inspirational work and commitment of Sister Dianna Ortiz in her deep desire to help the poor in Third World countries.

Section 3. That the United States State Department is urged to demand a full investigation of the unpardonable acts of violence and cruelty that took place on November second and third, nineteen hundred and eighty-nine in Antigua, Guatemala.

Section 4. That the Clerk of the House of Representatives is directed to send a copy of this resolution to the President of the United Nations, President of the United States, the Honorable George Bush, the State Department, and the Congressional delegation of the Commonwealth of Kentucky.

HR 44 was adopted by voice vote.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representative Lile; **HB 7**, Representatives Adkins, Maggard; **HB 20**, Representatives Callahan, Lile; **HB 39**, Representatives Gregory, Hancock, Mason, Morris; **HB 62**, Representative Geveden; **HB 73**, Representative Arnold; **HB 88**, Representative L. Clark; **HB 108**, Representative Jackson; **HB 113**, Representatives A. Jones, Curd, Geveden, Ridley; **HB 124**, Representative Todd; **HB 126**, Representative Lile; **HB 127**, Representative Northup; **HB 140**, Representative Todd; **HB 156**, Representative Jackson; **HB 175**, Representative Lefevers; **HB 194**, Representatives Geveden, J. Harper; **HB 197**, Representative Jackson; **HB 198**, Representative Lile; **HB 205**, Representatives Maggard, White, Curd, Lefevers, Noland, Noe, Preston, Ridley; **HB 206**, Representative Lile; **HB 221**, Representatives Brown, L. Clark, Scorsone; **HB 229**, Representative Lile; **HB 232**, Representative Lile; **HB 233**, Representatives Casebier, Crupper, Maggard; **HB 248**, Representative Casebier; **HB 249**, Representative Casebier; **HB 256**, Representative Mack, Lear; **HB 268**, Representative Mullinix; **HB 309**, Representative Freibert; **HCR 4**, Representative Ackerson; **HCR 9**, Representatives Ackerson, Northup.

The following members filed requests to have their names withdrawn as co-sponsors:

HB 20, Representative Callahan; **HB 242**, Representative Cline.

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 46**:

HR 46, A RESOLUTION honoring Thelma Hicks.

WHEREAS, Thelma Hicks is a member of the Greenup Homemaker's Club in Greenup, Kentucky; and

WHEREAS, Thelma Hicks participated in a statewide essay contest sponsored by the Attorney General's Office in cooperation with the Kentucky Extension Homemaker's Association; and

WHEREAS, Thelma Hicks' winning entry on the topic "There Ought To Be a Law" corresponded with National Consumer Education Week; and

WHEREAS, Thelma Hicks was presented the Kentucky Extension Homemaker's Award by Attorney General Fred Cowan on May 17, 1989;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House hails Thelma Hicks for her writing expertise and congratulates her on her winning entry for the Kentucky Extension Homemaker's award.

Section 2. That when the House adjourns this day, Wednesday, January 17, 1990, it does so in honor of Thelma Hicks.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to Thelma Hicks, 400 Perry Street, Apartment 9, Greenup, Kentucky, 41144.

HR 46 was adopted by voice vote.

Representative McBee moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative McBee moved the adoption of the following Legislative Citation No. 8. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The City of Walton, Kentucky upon the celebration of your 150th birthday. This great occasion will be celebrated by a gathering of city residents and elected officials on January 21, 1990. The residents and city officials of Walton should be proud of the heritage and accomplishments of your community.

This prestigious body joins Representative Bill McBee in saluting the City of Walton and wishes the community many more years of growth and prosperity.

Announcements

The Clerk announced the filing of the following floor amendment:

Floor Amendment No. 1 to **HB 87**, by Representative Napier:

Amend printed copy of **HB 87** on page 5, lines 10 through 13, by deleting all new text, and by substituting therefor the following:

"if these associations are permitted to issue interest bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended,".

The Clerk announced the following meetings:

The Committee on Education will meet January 18, 1990 at 10:00 a.m.

The Committee on Judiciary will meet January 18, 1990 at 8:00 a.m.

The Committee on Transportation will meet January 18, 1990 at 9:00 a.m.

Western Kentucky Caucus in Room 327 upon adjournment.

The Clerk announced the following meetings scheduled for Thursday, January 18, 1990 have been cancelled:

The Committee on Business Organizations and Professions.

The Committee on Banking and Insurance.

Adjournment

Representative Stumbo moved that the House adjourn until 1:00 p.m., Thursday, January 18, 1990.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Farrow, Ford, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 6—Blevins, Curtsinger, Heleringer, LeMaster, Lile, Stokes.

The motion to adjourn was adopted.

THURSDAY, JANUARY 18, 1990

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Donnermeyer and Noe.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 17, 1990 be dispensed with and the same approved. Agreed.

Pursuant to **HR 11**, the Speaker appointed the following committee to wait upon the Governor: Representative Hancock, Chairman; Representatives Overstreet, Gray and White.

Senate Message

Announcing passage of **SB 7**, **SB 9**, **SB 18**, **SB 51**, **SB 54**, **SB 61**, **SB 94**, **SB 102**, **SB 143** and **SJR 13**.

Introduction of Bills

HB 334, by Representative Castleman: AN ACT relating to municipal utilities.

HB 335, by Representatives Lyne and Gedling: AN ACT relating to commercial weighing and measuring device servicemen.

HB 336, by Representative Lewis: AN ACT proposing an amendment to Section 93 of the Constitution of Kentucky relating to state officers.

HB 337, by Representatives Priddy, Freibert, Riner, Burch, L. Clark, Hatcher, Heleringer, White, Gray, Walker, Yates, Ward, Clarke, Sheehan, Blevins, Lyne and Callahan: AN ACT relating to execution of the mentally retarded.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 322**, **HB 323**, **HB 329**.

Cities: **HB 320**.

Counties and Special Districts: **HB 325**, **HB 326**, **HB 327**.

Education: **HB 321**.

Health and Welfare: **HB 324**.

Judiciary: **HB 318**, **HB 319**, **HB 331**, **HB 332**.

Labor and Industry: **SB 53**, **SB 56**, **SB 59**, **SB 60**, **SB 62**.

State Government: **SB 68**.

Transportation: **HB 328**, **HB 330**, **HB 333**, **HJR 45**.

Report of Committees

The Committee on Education reported **HB 88** and **HB 174** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 88, AN ACT relating to the possession of paging devices by public school students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A student in a public school shall not possess a paging device while on school property or while attending a school-sponsored or school-related activity on or off school property unless the student is in attendance in the capacity of an active member of a volunteer fire fighting organization or a volunteer emergency medical services organization.

(2) The board of trustees of each school district shall include the prohibition in subsection (1) of this section in the district's written standards of student conduct. A student who violates the prohibition shall be subject to discipline as provided by board policy, consistent with this section.

(3) A person who discovers a student in possession of a paging device in violation of this section shall report the violation to the appropriate school administrator, as determined by school policy, who shall order a peace officer or appropriate school employee to confiscate the device, which is forfeited to the school district.

(4) In this section, "paging device" means a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor.

HB 174, AN ACT relating to gifted and talented education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.607 is amended to read as follows:

An Advisory Council for Gifted and Talented Education is created and attached to the State Board for Elementary and Secondary Education to develop and to recommend to the Superintendent of Public Instruction and the State Board for Elementary and Secondary Education a program of instruction and methods of operation for gifted and talented programs in the Commonwealth.

(1) The advisory council shall be composed of eleven (11) voting members appointed by the Governor and two (2) nonvoting, ex officio members and it is recommended that:

(a) Two (2) members ***shall*** [~~should~~] be superintendents of local school districts;

(b) Two (2) members ***shall*** [~~should~~] be teachers within local school districts, one (1) who is a gifted and talented teacher in an elementary or secondary school, and one (1) who is a teacher in a regular classroom program;

(c) Four (4) members ***shall*** [~~should~~] be professors of education; one (1) a professor of gifted and talented education, one (1) a professor with expertise in tests and measurements, one (1) a professor of curriculum and program development and one (1) a professor in program evaluation from Kentucky public universities;

(d) One (1) member ***shall*** [~~should~~] be a parent advocate of gifted and talented education;

(e) One (1) member ***shall*** [~~should~~] be a parent-at-large;

(f) One (1) member ***shall*** [~~should~~] be a gifted and talented program coordinator from a Kentucky school district; and

(g) The chairman of the Kentucky State Board for Elementary and Secondary Education and the Superintendent of Public Instruction shall be ex officio, nonvoting members.

(2) The powers and duties of this advisory council shall exist for a period of two (2) years beginning July 15, ***1990*** [~~1988~~]. Continuation beyond this two (2) year period shall be contingent upon re-creation by the General Assembly. The program review and investigations committee shall review the activities and accomplishments of this advisory council and the gifted and talented program prior to the next regular session of the General Assembly. This committee shall make recommendations to the General Assembly regarding the need for continuance of the council, changes in purpose and functions, changes in composition, and changes in appropriations.

(3) Individual appointments to the council shall be made for a two (2) year period. Members may be reappointed to the council for successive terms if the council is re-created by the General Assembly. Vacancies shall be filled by the Governor as they occur in a manner consistent with the provisions for initial appointment.

(4) At the first meeting of the council, a chairman shall be elected by and from the membership. An executive secretary appointed by the Superintendent of Public Instruction shall keep records of proceedings and shall prepare approved recommendations for transmission to the superintendent, the State Board for Elementary and Secondary Education and other appropriate agencies.

(5) The council shall meet at least quarterly during each year and may meet more often at the call of the chairman.

(6) Personnel of the Department of Education assigned to the gifted and talented program shall serve as staff to the council. The Superintendent of Public Instruction may contract for additional consultation and technical expertise outside the Department of Education as needed.

(7) All operating expenditures of the council shall be approved by the State Board for Elementary and Secondary Education and paid through funds budgeted to the gifted and talented education program. Members shall be reimbursed for actual expenses for attendance at council meetings and for other actual expenses incurred in carrying out their official duties.

(8) The Advisory Council for Gifted and Talented Education shall support the provisions of KRS 158.600 to 158.620. The powers and duties of the advisory council shall be to:

(a) Define the goals and objectives for the instruction of gifted and talented students in the Commonwealth;

(b) Define the student populations who would benefit by the instruction of a gifted and talented program;

(c) Set priorities for student populations who are most in need of instruction, if funding does not permit total service;

(d) Define, and monitor the implementation of, the identification criteria and methods which will best delineate students who are to participate in the program from the rest of the elementary and secondary student population;

(e) Determine through a research program the program components most effective in attaining the goals and objectives stated by the council and the programs which are most cost-efficient for Kentucky schools;

(f) Determine the cost of the various gifted and talented instructional services and the best fund allocation method to be used in funding the program;

(g) Design, and monitor the implementation of, a statewide plan which integrates the advisory council's recommendations into local school district's programs;

(h) Monitor the implementation of an ongoing evaluation system. This system shall be developed by the Department of Education and approved by the council to ensure implementation of successful program components; and

(i) Recommend to the State Board for Elementary and Secondary Education and the Superintendent of Public Instruction program grant allotments for approval, including the maximum amount of grants and the amount of each grant based on program approach, number and type of students in the proposed program, grades served and prior years' evaluation results.

(9) The advisory council shall report its activities to the State Board for Elementary and Secondary Education by way of its meeting minutes and shall adopt a work plan within the first six (6) weeks of its operations; report quarterly to the state board, the Governor and the Legislative Research Commission concerning its scheduled progress; submit an annual written report to the State Board for Elementary and Secondary Education, the Governor and the Legislative Research Commission; and submit a final written report to the General Assembly at the end of each biennium which shall include, but not be limited to, all areas of discovery and monitoring as outlined in subsection (8) of this section.

The Committee on Education reported **HB 175** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 175, AN ACT relating to teachers' retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For retirements effective January 1, 1984, and thereafter, the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by administrative regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%); and

(c) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than one hundred ninety dollars ($190) effective July 1, 1988, and two hundred dollars ($200) effective July 1, 1989, multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection. Eligibility for the benefits provided under this subsection shall be determined after applying any other cost-of-living adjustments provided by statute to the June, 1986 and June, 1987 annuity payment of the member.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1988, the monthly allowance of each member retired on or before July 1, 1987, and each recipient of a retirement option of such retired members shall be increased in the amount of two percent (2%) of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1989, the monthly allowance of each member retired on or before July 1, 1988, and each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July ***15, 1990*** [~~1, 1980~~], monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental ***or physical*** condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental ***or physical*** condition creating the dependency no longer exists or the child marries. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, 1982-84, 1986-88 and the 1989-90 cost of implementing the increases provided under subsection (3) of this section shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1988-90 biennium for the cost-of-living increases approved under subsection (5) of this section.

The Committee on Transportation reported **HB 57** and **HJR 19**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 57, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.270 is amended to read as follows:

(1) The department may prescribe ***administrative***[~~, by orders of general application, rules and~~] regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles and vehicles transporting microwave satellite television antennae, vehicles transporting boats or farm equipment, whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes and unusual conditions, and upon such terms in the interest

of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay in addition to a fee of sixty dollars ($60) for each overweight permit a fee of: forty dollars ($40) for any vehicle with six (6) axles; fifty dollars ($50) for any vehicle with seven (7) axles; sixty dollars ($60) for any vehicle with eight (8) axles; seventy dollars ($70) for any vehicle with nine (9) or more axles. For an overdimension permit the applicant shall pay a fee of sixty dollars ($60), and in addition, a fee of thirty dollars ($30) for any permit authorizing the movement of a load having a width of from ten (10) to fourteen (14) feet, or fifty dollars ($50) for any permit authorizing the movement of a load having a width in excess of fourteen (14) feet; twenty dollars ($20) for each single trip house trailer permit; a fee of eighty dollars ($80) for each annual house trailer, farm equipment, boat transporter or microwave antennae transporter permit; a fee of five hundred dollars ($500) for each annual boat permit for units in excess of sixty-five (65) feet in length and twelve (12) feet in width; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang. The department may, by regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and twelve (12) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedance of the flow of traffic would result from the presence of such units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the department of vehicle regulation, division of motor carriers of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit said trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedence of the flow of traffic would be created.

(3) Any motor carrier transporting equipment used to mold steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will be made weekly. The cost of the annual permit shall be five hundred dollars ($500).

(4) ***Any person transporting a parade float which exceeds the dimensional limits on a highway over which it is transported shall be required to obtain a permit as required in subsection (1) of this section. If the float is being used in conjunction with a parade to be held within the boundaries of the Commonwealth, no fee shall be assessed by the department for the issuance of the permit.***

(5) No person shall operate any motor vehicle, mobile home or recreational vehicle in violation of the terms of the permit.

HJR 19, A JOINT RESOLUTION directing the Secretary of Transportation to name the new connector road between Wilkinson Boulevard and Louisville Road in Franklin County in honor of Mr. Buford Van Meter.

WHEREAS, the Kentucky Department of Highways has completed construction of a connector road between Wilkinson Boulevard and Louisville Road in Franklin County; and

WHEREAS, this new road will be located in the vicinity of the home on Parkside Drive where the late Buford Van Meter resided; and

WHEREAS, Mr. Van Meter was a man who lived a seemingly simple lifestyle, but that simple life brought forth acts of heroism, community concern and a life-long pride in his country; and

WHEREAS, in 1917, Mr. Van Meter, in Frankfort as a result of being on leave from the United States Army, at great personal risk rushed through the halls of the old Capitol Hotel informing its occupants that the building was afire; and

WHEREAS, during the 1937 flood in Frankfort, Mr. Van Meter walked to town from his house on Parkside Drive and stayed in the flood area three days to help the victims move to shelter, retrieve their belongings and to ensure that they had something to eat; and

WHEREAS, his sense of duty to the Veterans of Foreign Wars and his pride in his country caused Mr. Van Meter to initiate a project of placing a flag on the graves of veterans at the Frankfort cemetery on Memorial Day in 1937; and

WHEREAS, Mr. Van Meter continued and eventually expanded that project to include graves of veterans at Sunset Memorial Gardens and other small local cemeteries over the 34 years that he headed this effort; and

WHEREAS, in 1981 in the first year that Mr. Van Meter relinquished the Memorial Day task, over 609 flags were placed at gravesites of these Veterans of Foreign Wars in Franklin County; and

WHEREAS, the naming of this road in honor of Mr. Buford Van Meter will serve to honor a man who displayed high moral values and civic pride every day of his life and serve as a reminder that family, community service and hard work are attributes which should be honored in our society;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of Transportation is directed to name the connector road between Wilkinson Boulevard and Louisville Road in honor of the late Buford Van Meter.

Section 2. That the Secretary of Transportation is directed to place the appropriate plaques or signs commemorating this route.

Section 3. That a copy of this resolution be transmitted to the Secretary of Transportation and the Mayor of Frankfort.

The Committee Amendment No. 1 to **HJR 19** is as follows:

Amend printed copy of **HJR 19**, on page 1, amend title to read as follows: "A JOINT RESOLUTION urging the Secretary of Transportation to name the new connector road between Wilkinson Boulevard and Louisville Road in Franklin County in honor of Mr. Buford Van Meter."

The Committee Amendment No. 2 to **HJR 19** is as follows:

Amend printed copy of **HJR 19** on page 2, line 2, by deleting the word "directed" and inserting the word "urged" in lieu thereof.

On page 3, line 3, by deleting the word "directed" and inserting the word "urged" in lieu thereof.

The Committee on Cities reported **HB 294**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 294, AN ACT relating to residential care facilities for handicapped persons.

WHEREAS, the Fair Housing Amendments Act of 1988 requires local land-use planning agencies to apply the same requirements to group home residents as they apply to families;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Handicapped person" means a person with a physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime.

(2) "Residential care facility" means a residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for handicapped persons.

(3) "Services" means, but is not limited to, supervision, shelter, protection, rehabilitation, personal development and attendant care.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Any sponsoring private or governmental agency shall be permitted to operate a residential care facility in any residential district, zone or subdivision subject only to compliance with the same limitations upon

area, height, yard, screening, parking, number of dwelling units and number of occupants per dwelling unit as apply to other residences in the district, zone or subdivision. For purposes of determining the number of occupants in a residential care facility, or in any of the dwelling units which comprise the facility, employees of the sponsoring agency providing services to the handicapped shall be counted only if their permanent residence is maintained at the facility. No conditional use permit, not otherwise required for other residences within a zone or land use category shall be required for the operation of a residential care facility.

The Committee Amendment No. 1 to **HB 294** is as follows:

Amend printed copy of **HB 294** on page 1, line 14,

By inserting the following new sentence after the word "*crime.*" to read as follows:

"Handicapped person" does not include persons with current, illegal use of or addiction to alcohol or any controlled substance as regulated under KRS Chapter 218A.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 320**.

Appropriations and Revenue: **HB 65**.

Calendar

HB 76, HB 81, HB 112, HB 113, HB 126, HB 137, HB 172, HB 191, HB 221 and **HB 255** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 96 and **HB 140** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 87, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved the adoption of Floor Amendment No. 1 to **HB 87**. Agreed.

Representative Napier moved that **HB 87**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 18, 1990 roll call on **HB 87** - Appendix.)

HB 87, as amended, was passed and the title agreed to.

Representative Napier moved that the vote by which **HB 87**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HB 81, HB 96, HB 137** and **HB 172** have been posted for passage in Orders of the Day, January 22, 1990.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 126, HB 140, HB 221.**

Introduction of Bills and Resolutions

HB 338, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 339, by Representative Clarke: AN ACT relating to property tax compliance.

HB 340, by Representative Callahan: AN ACT relating to motor vehicles.

HB 341, by Representative Scorsone: AN ACT relating to the pronouncement of death.

HB 342, by Representative Mack: AN ACT relating to long-term care insurance.

HB 343, by Representative Kerr: AN ACT relating to public health.

HB 344, by Representatives Kerr and Walker: AN ACT relating to education.

HR 47, by Representative B. Smith: A RESOLUTION designating James H. Patton, Jr., a poet laureate.

HCR 48, by Representatives Gedling and Farrow: A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **SB 3, SB 68, HB 48, HB 68, HB 84, HB 91, HB 232, HCR 6, HJR 8, HCR 22.**

Counties and Special Districts: **HB 230, HB 236.**

Motions, Petitions and Communications (continued)

Representative B. Smith moved that the rules be suspended to act upon a Resolution. Agreed.

Representative B. Smith moved the adoption of the following **HR 47**:

HR 47, A RESOLUTION designating James H. Patton, Jr., a poet laureate.

WHEREAS, James H. Patton, Jr., Franklin, Kentucky, retired seed and grain operator, has been writing poetry for over fifty years, and has published over sixty poems and epics; and

WHEREAS, James H. Patton, Jr., has compiled two volumes of his poems and epics, ***The Hermit***, and ***Somewhere in the Scheme***; and

WHEREAS, James H. Patton, Jr., has been recognized by The World of Poetry Contest and ***Alura Quarterly***; and

WHEREAS, James H. Patton, Jr., has used his poetry to challenge citizens of the world to act responsibly and to preserve the world for the future;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House designates James H. Patton, Jr., a poet laureate of Kentucky.

Section 2. That a copy of this resolution be sent to James H. Patton, Jr., 442 West Cedar Street, Franklin, Kentucky.

HR 47 was adopted by voice vote.

Representative J. Harper moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 49, by Representatives J. Harper, Richards, Curd, Castleman and Butler: A RESOLUTION honoring the Kentucky High School Speech League, Incorporated.

Representative J. Harper moved the adoption of the following **HR 49**:

HR 49, A RESOLUTION honoring the Kentucky High School Speech League, Incorporated.

WHEREAS, the Kentucky High School Speech League, Inc. is the oldest organization of its kind in Kentucky, having been originated in 1919; and

WHEREAS, the Kentucky High School Speech League, Inc. has approximately 250 member schools who register annually with the League; and

WHEREAS, the Kentucky High School Speech League, Inc. has in excess of 8,000 individuals who participate annually in local, regional and state League activities; and

WHEREAS, the Kentucky High School Speech League, Inc. is the only organization of its kind in Kentucky recognized by the National Committee on Discussion and Debate; and

WHEREAS, the Kentucky High School Speech League, Inc. works closely with the State Department of Education promoting oral communication skills in all schools in Kentucky; and

WHEREAS, the Kentucky High School Speech League, Inc. is a non-profit organization operated solely to promote oral communication skills for Kentucky school students;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That they House of Representatives honors the Kentucky High School Speech League, Incorporated.

Section 2. That the Clerk of the House of Representatives send a copy of this Resolution to Honorable David A. Pike and Honorable Rodney D. Burress, Pike & Burress, Attorneys-at-Law, P.O. Box 746, Shepherdsville, Kentucky 40165 as counsel for the Kentucky High School Speech League, Inc.

HR 49 was adopted by voice vote.

Representative J. Harper moved that a call of the roll be taken to show co-sponsors of **HB 49**. Agreed.

On the roll the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Bentley, Blandford, Bronger, Brown, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward White, Worthington, Yates, Zimmerman. Nays 0.

Representative Bentley moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Bentley moved the adoption of the following Legislative Citations No. 10 and No. 11. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Cordia High School Girls' Cross Country Track and Field Team. This body salutes the superior talent exhibited during the team's many outstanding performances.

Members of the Cordia High School Girls' Cross Country Track and Field Team have brought honor to their school and community by achieving statewide academic and athletic recognition. This prestigious body commends you for your distinguished record.

Representative Bentley individually honored the following members of the Cordia High School Girls' Cross Country Track and Field Team:

Asia Adams, Karla Gail Brewer, Tina Bush, Jennifer Gonzales, Pamela Grigsby, Penny Hundley, Donna Perkins, Donna Denise Stacy, Jennifer Sturgill, and Coaches Zella Combs and Elmer R. Combs.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Cordia High School Boys' Cross Country Track and Field Team.

This body salutes the superior talent exhibited during the team's many outstanding performances.

Members of the Cordia High School Boys' Cross Country Track and Field Team brought honor to their school and community by realizing the status of the only Eastern Kentucky team to win two back-to-back state tournaments. Their dedication to athletic and academic excellence is exceptional. This prestigious body commends you for your distinguished record.

Representative Bentley individually honored the following members of the Cordia High School Boys' Cross Country Track and Field Team:

Douglas Eugene Bush, Bryan Stewart Combs, Carlton Keith Combs, Nicholas Jay Combs, Brandon Gayheart, Richard Ritchie, Ryan Ritchie, Shane Stanley, Shawn Stanley, and Coaches Elmer R. Combs and Zella Combs.

Representative Stumbo moved that the rules be suspended for Report of Committees and Reference of Bills and Resolutions. Agreed.

Representative Stumbo moved that **HB 331** be reassigned to the Committee on State Government. Agreed.

Report of Committees

The Committee on Judiciary reported **HB 28**, with Committee Amendments attached thereto, **HB 180** and **HB 217**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 28, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.150 is amended to read as follows:

(1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

(2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:

(a) The age, occupation, and residence of each party and his length of residence in this state;

(b) The date of the marriage and the place at which it was registered;

(c) That the parties are separated and the date on which the parties separated;

(d) The names, ages, and addresses of any living infant children of the marriage, and whether the wife is pregnant;

(e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and

(f) The relief sought.

(3) Either or both parties to the marriage may initiate the proceeding.

(4) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.

(5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(6) The court may join additional parties proper for the exercise of its authority to implement this chapter.

(7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

(8) Unless the court otherwise directs, the petitioner shall file a sworn disclosure statement on a form approved by the Kentucky Supreme Court, copies of which can be obtained from the Administrative Office of the Courts. This form shall be filed within thirty (30) days after the filing of the response or after the expiration date for filing of the response. The respondent shall file a sworn financial disclosure statement on the same form within fifteen (15) days of the petitioner's filing the statement. No actions shall be assigned for a pretrial conference without both disclosure statements in the file. To the extent possible, the respondent shall present information in the same order as that used by the petitioner.

(9) Extensions of the time required under subsection (8) of this section shall be by leave of court for good cause shown.

Section 2. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance [~~or temporary support of a child of the marriage entitled to support~~]. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) ***Upon motion by either party accompanied by an affidavit setting forth the number of children of the marriage and income of the parties, the court, without a hearing, shall order an amount of temporary child support based upon guidelines as provided by law, the order effective immediately; either party may move for a hearing before the court to contest or modify the order pursuant to the rules of the local court.***

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4)[~~(3)~~] On the basis of the showing made and in conformity with KRS 403.200 [~~and 403.210~~], the court may issue a temporary injunction or restraining order and an order for temporary maintenance [~~or support~~] in amounts and on terms just and proper in the circumstances.

(5)[~~(4)~~] A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 3. KRS 403.210 is amended to read as follows:

(1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for his support, without regard to marital misconduct, after considering all relevant factors including:

(a)[~~(1)~~] The financial resources of the child;

(b)[~~(2)~~] The financial resources of the custodial parent;

(c)[~~(3)~~] The standard of living the child would have enjoyed had the marriage not been dissolved;

(d)[~~(4)~~] The physical and emotional condition of the child, and his educational needs[~~, including educational needs of a child who has attained the age of eighteen (18) years or older and who is enrolled on a full-time basis in high school~~]; and

(e)[~~(5)~~] The financial resources and needs of the noncustodial parent.

(2) The court shall include in its order or decree a provision stating an amount reasonable for the education of the child through the completion of high school, but not beyond June 1 of the school year during which the child reaches the age of nineteen (19) years.

Section 4. KRS 454.275 is amended to read as follows:

In a proceeding to determine child support liability, a court may exercise personal jurisdiction over a person whose marital domicile ***was*** [~~is~~] in Kentucky, ***and whose minor child or children reside in Kentucky,*** and who, [~~for the purpose of avoiding support and maintenance of his minor children,~~] removes himself from the jurisdiction of the court. In such cases service may be had as provided in KRS 454.210 and 454.270.

Section 5. KRS 403.220 is amended to read as follows:

The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. ***In a proceeding to enforce payment of child support, there shall be a presumption in favor of an award of attorney's fees to the prevailing party.***

The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

Section 6. KRS 403.200 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of a marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

(a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and

(b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(2) Fault shall not be considered in determining whether a spouse is entitled to maintenance under subsection (1) of this section.

(3) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

(a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, and the physical and emotional condition of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

(4) Upon determination by the court that a party is entitled to maintenance, fault by either party may be considered in determining the amount and duration of maintenance.

(5) The transfer to a spouse of an interest in a retirement plan qualified under the provisions of the Internal Revenue Code shall not be considered as a factor to deny, revoke, or modify a maintenance award if the following conditions are satisfied:

(a) The interest has been awarded under KRS 403.190 to a spouse seeking maintenance; and

(b) The interest is transferred to another retirement plan within sixty (60) days of receipt by virtue of the order dividing the property.

A transfer qualifying under this subsection shall not be considered changed circumstances under KRS 403.250 until withdrawals are made from the account.

(6) If the spouse seeking maintenance meets the criteria provided in subsection (1) of this section and had been married ten (10) years or longer, there shall be a rebuttable presumption of maintenance for the lifetime of the spouse seeking maintenance, subject to review.

Section 7. KRS 403.250 is amended to read as follows:

(1) Except as otherwise provided in subsection (6) of KRS 403.180 ***and subsection (4) of this section,*** the provisions of any decree respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death [~~of either party~~] or [~~the~~] remarriage of the party receiving maintenance ***but not by the death of the party obligated to pay maintenance. When a party obligated to pay maintenance dies, the amount of maintenance may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.***

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

(4) The court may consider the voluntary cohabitation of a party receiving maintenance with a member of the opposite sex as a factor to modify or terminate periodic payments of maintenance unless expressly provided in the decree that maintenance shall not terminate upon the remarriage of the party receiving maintenance. As used in this subsection, the term "cohabitation" means the dwelling together continuously and habitually of a man and a woman as though married even though the relationship has not been solemnized as a marriage according to law.

Section 8. KRS 161.700 is amended to read as follows:

[~~(1)~~] ***Except in a proceeding as provided in KRS 403.190(1) and as provided in this chapter,*** the right of a teacher to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment or other process, and are unassignable [~~except as provided in this chapter~~].

[~~(2) Retirement allowance, disability allowance, accumulated contributions or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance, accumulated contributions or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).~~]

Section 9. KRS 61.690 is amended to read as follows:

(1) ***Except in a proceeding as provided in KRS 403.190(1),*** all retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652 and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652 and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.

(2) [~~A retirement allowance, a disability allowance, a member's accumulated contributions or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).~~

~~(3)~~] Qualified domestic relations orders issued by a court shall be honored by the retirement systems if the orders are in compliance with the policy adopted by the board pursuant to KRS 61.645(9)(e).

Section 10. KRS 427.120 is amended to read as follows:

Except in a proceeding as provided in KRS 403.190(1), no part of any police or fire fighter's pension fund established in a city of the first, second or third class shall, before or after its order for distribution to any person entitled thereto, be seized or levied upon by any writ or decree for the payment of any debt, claim or judgment against the beneficiary of the fund.

Section 11. KRS 427.125 is amended to read as follows:

Except in a proceeding as provided in KRS 403.190(1), no portion of a pension fund created under KRS 95.761 to 95.785 shall, before or after its order for distribution by the board of trustees to the persons entitled thereto, be held, seized, taken, subjected to or detained or levied upon by virtue of any attachments, execution, injunction, writ, interlocutory, or other order, or decree, or any process or proceeding whatever issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against the beneficiary of said fund, but said fund shall be held and distributed for the purpose of KRS 95.761 to 95.785, and for no other purpose whatever.

Section 12. KRS 421.210 is amended to read as follows:

(1) In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that in an action for absolute divorce or divorce from bed and board, either or both of them may testify concerning any matter involved in the action, including questions of property[~~; and provided further, that neither may be compelled to testify for or against the other~~]. ***Neither husband or wife may be compelled to testify for or against the other; however, this privilege shall not apply to criminal***

acts committed before the marriage.

(2) Subject to the provisions of subsection (6) of this section, no person shall testify for himself concerning any verbal statement of, or any transaction with, or any act done or omitted to be done by an infant under fourteen (14) years of age, or by one who is of unsound mind or dead when the testimony is offered to be given except for the purpose, and to the extent, of affecting one who is living, and who, when over fourteen (14) years of age and of sound mind, heard such statement, or was present when such transaction took place, or when such act was done or omitted, and except in actions for personal injury, death or damage to property by negligence or tortious acts, unless:

(a) The infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or

(b) The person of unsound mind shall, when of sound mind, have testified against such person, with reference thereto; or

(c) The decedent, or a representative of, or someone interested in, his estate, shall have testified against such person, with reference thereto; or

(d) An agent of the decedent or person of unsound mind, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify, with reference thereto.

(3) No person shall testify for himself, in chief, in an ordinary action, after introducing other testimony for himself, in chief; nor in an equitable action, after taking other testimony for himself, in chief.

(4) No attorney shall testify concerning a communication made to him, in his professional character, by his client, or his advice thereon, without the client's consent; nor shall an ordained minister, priest, rabbi or accredited practitioner of an established church or religious organization be required to testify in any civil or criminal case or proceedings preliminary thereto, or in any administrative proceeding, concerning any information confidentially communicated to him in his professional capacity under such circumstances that to disclose the information would violate a sacred or moral trust, unless the person making the confidential communication waives such privilege herein provided.

(5) If the right of a person to testify for himself be founded upon the fact that one who is dead or of unsound mind has testified against him, the testimony of such person shall be confined to the facts or transactions to which the adverse testimony related.

(6) A person may testify for himself as to the correctness of original entries made by him against persons who are under no disability — other than infancy — in an accounting, according to the usual course of business though the person against whom they were made may have died or have become of unsound mind; but no person shall testify for himself concerning entries in a book, or the contents or purport of any writing, under the control of himself, or of himself and others jointly, if he refuse or fail to produce such book or writing, and to make it subject to the order of the court for the purposes of the action, if required to do so by the party against whom he offers to testify.

(7) The assignment of a claim by a person who is incompetent to testify for himself shall not make him competent to testify for another.

(8) A party may be examined as if under cross-examination at the instance of the adverse party, either orally or by deposition as any other witness; but the party called for such examination shall not be concluded thereby, but may rebut it by counter testimony.

(9) None of the preceding provisions of this section applies to affidavits for provisional remedies, or to affidavits of claimants against the estates of deceased or insolvent persons, or affect the competency of attesting witnesses of instruments which are required by law to be attested.

The Committee Amendment No. 1 to **HB 28** is as follows:

Amend printed copy of **HB 28** on page 3, line 17, to add "***with notice to the opposing party,***" following "***parties,***";

and on page 3, line 18, to add "***within fourteen (14) days from the filing of said motion,***" following ***hearing,***".

The Committee Amendment No. 2 to **HB 28** is as follows:

Amend printed copy of **HB 28** on page 2, line 15, to add "***financial***" following the word "***sworn***".

HB 180, AN ACT relating to judgment liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 426.720 is amended to read as follows:

(1) A final judgment for the recovery of money or costs in the courts of record in this Commonwealth, whether state or federal, shall act as a lien upon all real estate in which the judgment debtor has any ownership interest ***or acquires any ownership interest subsequent to the judgment***, in any county in which the following first shall be done:

(a)[~~(1)~~] The judgment creditor or his counsel shall file with the county clerk of any county a notice of judgment lien containing the court of record entering the judgment, the civil action number of the suit in which the judgment was entered, and the amount of the judgment, including principal, interest rate, court costs, and any attorney fees;

(b)[~~(2)~~] The county clerk shall enter the notice in the lis pendens records in that office, and shall so note the entry upon the original of the notice;

(c)[~~(3)~~] The judgment creditor or his counsel shall send to the last known address of the judgment debtor, by regular first class mail, postage pre-paid, or shall deliver to the debtor personally, a copy of the notice of judgment lien, which notice shall include the text of KRS 427.060 and also the following notice, or language substantially similar:

"Notice to Judgment Debtor. You may be entitled to an exemption under KRS 427.060, reprinted below. If you believe you are entitled to assert an exemption, seek legal advice."; and

(d)[~~(4)~~] The judgment creditor or his counsel shall certify on the notice of judgment lien that a copy thereof has been mailed to the judgment debtor in compliance with subsection (3) of this section.

(2) In an action in which an appeal is taken from a final judgment within the provisions of subsection (1) of this section, the owner of real property against which a judgment lien has been asserted under that subsection may, at any time before the finality endorsement issues on the decision of the appellate court, execute before the county clerk of any county in which real property subject to the judgment lien lies a bond for double the amount of the final judgment, including principal, interest, court costs, and any attorney fees, with good sureties to be approved by the clerk, conditioned upon the obligors satisfying the final judgment in the event that it is sustained on appeal. The bond shall be preserved by the clerk, and upon its execution the judgment lien upon the real property within that county shall be discharged. If a judgment lien under subsection (1) of this section has been filed in more than one (1) county, a separate bond shall be executed in each of those counties in which the judgment lien is sought to be discharged.

HB 217, AN ACT relating to statutory liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.275 is amended to read as follows:

(1) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when ***the*** [~~said~~] vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the Transportation Cabinet the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.

(2) ***If*** [~~In the event that~~] a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of ***the*** [~~said~~] facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten (10) business days of recovery of, or taking possession of the motor vehicle. ***The*** [~~Said~~] notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of reasonable charges due on ***the*** [~~said~~] vehicle. When the owner of ***the*** [~~such~~] facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3) Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the aforementioned requirements of this section, shall have a lien on the motor vehicle, for the reasonable or agreed charges for storing or towing the vehicle, as long as it remains in his possession. If after a period of ***forty (40)*** [~~sixty (60)~~] days the reasonable or agreed charges for storing or towing a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner has been notified by certified mail ten (10) days prior to the time and place of the sale. ***If*** [~~Should~~] the proceeds of the sale of any vehicle pursuant to this section ***are*** [~~be~~] insufficient to satisfy accrued charges for towing, transporting, ***and*** [~~and/or~~] storage, ***the*** [~~said~~] sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, transporting, ***and*** [~~and/or~~] storage charges by the owner or responsible casualty insurer of ***the*** [~~said~~] vehicle. This lien shall be subject to prior recorded liens.

(4) The provisions of this section shall not apply when a local government causes a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government causes a vehicle to be towed.

The Committee Amendment No. 1 to **HB 217** is as follows:

Amend printed copy of **HB 217** on page 3, below line 17, to add the following:

"Section 2. KRS 82.630 is amended to read as follows:

(1) If within ten (10) business days of impoundment a motor vehicle impounded by a local government has not been claimed, or a hearing has not been requested pursuant to KRS 82.625, notice shall be mailed by certified mail to the registered owner, if known, and lienholders of record, if any, affording ***the*** [~~such~~] parties the right within ten (10) days from the date of notice to claim the vehicle or request a hearing pursuant to KRS 82.625. The notice shall state that, if no hearing is requested, the vehicle shall be deemed abandoned unless the charges thereon are paid within ***forty (40)*** [~~ninety (90)~~] days of receipt of notice.

(2) After ***forty (40)*** [~~ninety (90)~~] days from the date of notice required by subsection (1) of this section an impounded motor vehicle shall be deemed abandoned and the vehicle shall escheat to the local government.

(3) If the vehicle is judged suitable for use, the local government may obtain a certificate of registration and ownership from the county clerk pursuant to KRS 186.020 and either use the vehicle for governmental purposes or sell the vehicle at public auctions to the highest bidder. If the vehicle is not suitable for use, it may be sold for its scrap or junk value."

Representative Casebier moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative Casebier moved the adoption of the following Legislative Citations No. 12 and No. 13. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates perfect attendance roll students at Medora Elementary School.

This body salutes the outstanding achievement of being named to the Medora Elementary School Perfect Attendance Roll. This is an accomplishment which was reached by hard work and dedication to academic excellence.

The House of Representatives joins Representative Lindy Casebier in saluting you and wishing you continuous success in your studies.

Representative Casebier individually honored the following students named to the Medora Elementary School Perfect Attendance Roll:

Chris Anderson, Angela Ashworth, Amanda Beatty, Dustin Benningfield, Steven Biscan, Gennifer Blackstock, Michelle Blackstock, Jason Blocker, Eric Bolton, Adam Bott, Joseph Brown, Marissa Brown, Shelly Brumitt, Tim Burns, Brenton Byrd, Robert Cahill, Shane Calkin, Christopher Calvert, Corey Chapman, Janechika Chapman, Paige Coogle, Charlotte Corder, Justin Cox, Ashley Coyle, Andy Durbin, Kristen Duty, Derek Edmondson, Christina Edwards, DaJuon Edwards, Donnie Edwards, Steven Edwards, John Evans, Tina Evelsizer, Cory Fitch, Curtis Fitch, Dave Fitts, Elon Fitts, Derrick Fondern, Jackie Fuller, Johnnie Fuller, Tim Goldsmith, Jacob Gyles, Nikki Gyles, Jessica Hargrove, Nisha Hawkins, Shemika Hawkins, Michael Hayden, Katrina Heath, Jacob Helm, Danielle Henderson, Bradley Henry, Eric Jones, Nicky Kaufman, Jenny Kayrouz, Bobby Kemper, Andy Kinnamon, Brett Koppell, Pamela Kuhn, Brandi Lerchenfelt, Tommy Lerchenfelt, Tonya Lynch, Sheena Marshall, Jacob Mathis, Janeesha Melvin, Latasha McKenzie, Malika McKenzie, Christy Nall, Ahmad Neeley, Sonji Neely, Tamika Nelson, Troy O'Keefe, Laura Oller, Robert Owens, Angel Patrick, Rebecca Patsfield, Jason Payne, Jeremy Payne, Nachelle Porter, Karmella Powers, Chris Radar, Steven Reynolds, Aleasha Rhudy, Jessica Roberts, Sarita Roberts, Marquita Robinson, Monique Robinson, Christina Ross, Clint Rosser, Kent Rosser, April Rowe, Kelly Ryan, Ivy Salyer, Sabrina Saunders, Joshua Schelling, Sean Sebastian, Aubrey Sedoris, Christy Seidl, James Sims, Carla Smith, Duncan Smith, Heather

Smith, Donnell Snellen, Tracy Snellen, Kenny Splunge, Sara Spradling, Brian Stich, Kevin Stich, Melvin Stone, Jason Sullivan, Jacob Taylor, Rae Thomas, Brandi Thompson, Pam Toohey, Stephanie Triplett, Michael Turner, Jeremy Vice, Chris Wallace, Anthony Wallis, Chris Ward, Ahmad Weeley, Rashon Williams, Dewon Wilson, La'Nell Wilson, and Anthony Yelverton.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates honor roll students at Medora Elementary School.

This body salutes the outstanding achievement of being named to the Medora Elementary School Honor Roll. This is an accomplishment which was reached by hard work and dedication to academic excellence.

The House of Representatives joins Representative Lindy Casebier in saluting you and wishing you continuous success in your studies.

Representative Casebier individually honored the following students named to the Medora Elementary School Honor Roll:

Angela Ashworth, Amanda Beatty, Gennifer Blackstock, Michelle Blackstock, Shelly Brumitt, Shenee Burkley, Shane Calkin, Charlotte Corder, Justin Cox, Ashley Coyle, Jason Crowe, Jennifer Davis, Brian Devore, Chris Duncan, Kristen Duty, Derek Edmondson, Christina Edwards, Donald Edwards, Dave Fitts, Jessica Hargrove, Bradley Henry, Nichole Hiner, Tonia Hogg, Jacob Johnson, Marissa Johnson, Josh Kidwell, Brett Koppel, Tommy Lerchenfelt, Sasha Loveall, Jimmie Massey, Jacob Mathis, Christina Myers, Louis O'Bannon, Robert Owens, Angel Patrick, Aleasha Rhudy, Sarita Roberts, Derrick Robinson, Monique Robinson, Christina Ross, Kent Rosser, Ivy Salyer, Sabrina Saunders, Joshua Schelling, Christy Seidl, John Senn, Duncan Smith, Heather Smith, Nick Smith, Ryan Smith, Tracy Snellen, Sara Spradling, Michelle Stevens, Melissa Stevenson, Jessica Stringer, Rae Thomas, Brandi Thompson, Chrystal Thompson, Amanda Tingle, Stephanie Triplett, Chris Wallace, and Mary Wallace.

Representative Stumbo moved that **HB 23** be reassigned to the Committee on Cities. Agreed.

Representative Napier moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Napier moved that he be recorded as voting "yea" on **HB 49**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 20, Representative Callahan; **HB 28**, Representative Ackerson; **HB 30**, Representative Maggard; **HB 73**, Representative Jensen; **HB 87**, Representatives Farrow, J. Harper, Lyne; **HB 205**, Representative Blevins; **HB 207**, Representative B. Smith; **HB 221**, Representative Lile; **HB 229**, Representative Gray; **HB 268**, Representatives Gedling, Yates; **HB 309**, Representative Walker.

Announcements

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 1 to the Committee Substitute to **HB 112**, by Representative Long:

Amend printed copy of HCS for **HB 112** on page 5, line 25,

By inserting after the phrase "***person shall***" the word "***knowingly***".

Floor Amendment No. 2 to **HB 31**, by Representative Stumbo:

Amend printed copy of **HB 31** on page 1, line 13, after the word "***incinerators.***" and before the word "***It***" insert the following: "***The cabinet shall develop these design and operation standards within ninety (90) days from the effective date of this Act or this Act shall become null and void.***"; and

on page 1, line 14, after the word "***all***" insert "***new***"; and

on page 1, line 14, after the word "***facilities***" insert "***charging over five hundred pounds (500 lbs.) per hour***"; and

on page 1, line 17, insert the word "***new***" after the word "***No***"; and

on page 1, line 19, after the word "***incinerator***" insert "***charging over five hundred pounds (500 lbs.) per hour***".

Floor Amendment No. 1 to **HB 113**, by Representative Johnson:

Amend printed copy of **HB 113** on page 9, by deleting lines 16 through 24 in their entirety.

Floor Amendment No. 2 to **HB 113**, by Representative Johnson:

Amend printed copy of **HB 113** on page 9, by deleting lines 4 through 15 in their entirety.

And on page 9, line 16, by deleting the numeral "*(2)*".

Representative Stumbo moved that the House stand at ease pending the report from the committee to wait upon the Governor.

The Speaker called the House to order.

Representative Stumbo moved that floor privileges be granted to the Constitutional Officers and other invited guests. Agreed.

The Committee appointed to wait upon the Governor reported the Governor was ready to address the Joint Session.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate assumed the Chair and called the Joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Prayer by Brother Joe Adams.

The doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House chamber to address the Joint Session, appeared with the Governor.

The Honorable Brereton C. Jones introduced the Honorable Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky.

Governor Wilkinson addressed the Joint Session of the General Assembly as follows:

Governor Wallace G. Wilkinson's 1990 Budget Address to the 129th Session of the Kentucky General Assembly

January 18, 1990

Lt. Governor Jones, Mr. Speaker, Distinguished Members of the General Assembly, Mr. Chief Justice Stephens, Members of the Supreme Court, Honored Guests.

Perhaps once in a generation we face a moment like this, a moment when the eyes of history focus squarely on our Commonwealth and its leaders must rise to the challenge of change. I welcome this chance to set a course that will propel the Commonwealth into the 1990's and the 21st century. I call on you today and as you labor through the weeks ahead to keep your "eyes on the prize" and win a significant, even an historic, victory for all the people of Kentucky, especially our children. This budget is about the future of Kentucky. But in setting a course for the future, it is essential that we not repeat the mistakes of the past. It is critical that we present solutions equal to the challenges we face. We must address the accumulated deficiencies caused by years of "business as usual" in Frankfort, years of neglect, of inadequacy, of indecision and timidity. This budget lifts this Commonwealth up on a host of fronts, but especially in the programs and policies that affect our children and our future. This speech, like the budget it presents, is about reality, not rhetoric. There is a time for rhetorical flourishes, but that time is not now. Now is the time to get down to business. So bear with me for awhile as we make our way through these numbers, and forge a new future for Kentucky.

You will have an opportunity in the next 48 legislative days to completely examine and dissect these proposals in your committee meetings and deliberations. I welcome your scrutiny. I welcome your interest, constructive revisions, and improvements. I believe we have a sound package that must be enacted. We shall not soon have this opportunity again. We cannot afford to squander it. This budget sets priorities that concentrate our resources where they need to be focused, on education; human services; economic revitalization; on the environment and quality of life; on roads, bridges, airports, and water, sewer, and utility systems; on maintenance, improvement, and renovation of our major investments in parks, schools; and on our universities, hospitals, and prisons and on good management. Within these priorities, this budget emphasizes equity not only in elementary and secondary education, but for expanded access to higher education, community college funding, welfare reform and medicaid, and ultimately in our state revenue structure.

One new piece of Kentucky's revenue pie is the lottery. In 1988, the people of Kentucky voted overwhelmingly to create a state lottery. Now that we have a lottery, it is appropriate to dedicate its proceeds to education and to senior citizens' programs. The people of Kentucky expect that the lottery will pay for a portion of the education budget. We know that it cannot pay for all that is needed. But it is critical that the lottery be dedicated to education and senior citizens after the Vietnam veterans receive their bonus. We cannot call on the citizenry to support enhanced revenues if we do not first pledge the lottery to the education reform effort.

Education Reform and Education Funding

The Executive Budget for 1990-92 provides an increase in state funds for elementary and secondary education of 25 percent compared to the current biennium. This increase will support the final product of the task force on education reform. It will support a restructuring of our school system as required by the Kentucky Supreme Court. More importantly, it will support the most significant strides ever made in Kentucky for equity in funding for education. The Executive Budget includes an increase of $263 million during the biennium for school equalization funding. Let me repeat that figure, $263 million more for equity. This will increase by 125 percent our commitment to equalization by the end of the biennium. These funds will enable our poorer school districts to provide the teachers, classroom supplies, instructional materials, and school buildings necessary for a better education. We will have done more for school equalization during my administration than in the previous eleven years since the equalization program was started.

Every major national study of education has concluded that early childhood education is an essential part of a successful educational program. I am proposing that, for the first time ever, we initiate a statewide program of early childhood education for four-year olds at risk of educational failure. This program will be funded from the state lottery at a cost of $51 million in the next two years. I believe there is no higher priority for educational funding than early childhood education. It is fitting that this new program be funded with these new lottery revenues. The lottery has been successful beyond even my expectations. It can comfortably sustain this program for educating our four-year olds who are at risk. When the Kentucky Supreme Court struck down our system of elementary and secondary education it issued a challenge to restructure educational delivery systems throughout the state. That is what the task force on education is all about. Not simply more money, but more results.

This budget provides new revenues to implement the recommendations of the task force with respect to school based management, restructuring, reforms in governance, and curriculum improvements plus, outcome-based performance standards. These initiatives are the essential components of a redirected educational system. They satisfy a mandate from the court, and more importantly from the people, to do more than just put more money into the same old system. We must provide a more adequate financial foundation. Toward that goal, this budget provides a total of 780 million additional dollars over the biennium for education, 780 million new dollars. Of that total, 512 million new dollars are for programs beyond regular continuation, beyond 5 percent increments and beyond 3 percent current operating expenses. These new dollars are targeted for the full range of equity adjustments and adequacy enhancements being considered by the task force on education reform. The additional funds are to provide more and better classroom supplies, state of the art technology, including computers, basic instructional aids and equipment. It is appalling that too many Kentucky classrooms are under-equipped and under-supplied. These funds will allow a giant step forward in remedying that situation. Moreover, the KET star channels program presents an opportunity for Kentucky to be a national leader in interactive classes provided through technology. I am proposing that nearly $20 million in lottery funds be channeled into this initiative as an operating and capital investment. The number of interactive classes will be expanded and every school will be able to receive and participate in course offerings not available on the local level.

Next to good teachers, the bedrock of learning is good books. Recognizing that, general funds totaling $652,800 over the biennium will be directed toward the beginning of a statewide library network. Library records will be converted to automated form, and libraries across the state will be phased into the network. Soon, each library patron in the state will have access to books and research materials previously found only in the state's largest and best stocked libraries. In addition, I recommended $1 million in new funds to replace or retrofit aging bookmobiles across the Commonwealth and bring books to the people.

We will continue an aggressive program of school building construction in the new biennium. The budget includes $125 million in new construction authority for the school facilities construction commission. This is the largest school construction program to be authorized in any biennium.

Finally, our budget addresses certain fundamental aspects of our education program that we must support simply to continue ongoing operations. Eighty-two million dollars has already been included for annual pay increases for teachers and school administrators. This is in addition to any funds that may be recommended for this purpose by the task force on education reform and the General Assembly. The existing health and life insurance coverage has been continued at a cost of $212 million for the biennium, with funds for state health insurance alone increasing 21 percent per year. Current operating expenses have been funded for a three percent per year increase costing $15.5 million over the biennium. The teachers' retirement system will receive an increase in the minimum benefits paid to those teachers who taught and retired many years ago when teaching salaries were particularly low.

After we pay the price of educational reform and equity, we will need to ensure that our dollars are well spent. I've said it before, but it bears repeating, the people of Kentucky will not spend new money for the same old stuff. I support funding for improvements in our evaluation of student achievement and school performance. We simply have to have solid results from this effort. We cannot allow the money to be abused or wasted. Therefore, I am suggesting the development and implementation of a new statewide testing program that will allow comparisons both within Kentucky and against the standards of other states.

An evaluation of school management is a necessary corollary to this initiative. I urge the task force to continue its groundbreaking work in this area in ways that will ensure better efficiency and the use of sound management techniques. Moreover, I believe we should continue to monitor and to assist schools and school districts in managing the educational enterprise. Beyond dollars, we can say that we have met this challenge, responded on behalf of the children, and answered the Supreme Court with a program that is both responsible and progressive. This is the beginning of a great day and a great session for education in Kentucky.

Higher Education

I am proposing a general fund increase of $206 million over the next biennium for universities and colleges. This infusion of needed funds comes only after an exhaustive review of higher education financing and accountability that has been completed during this biennium. Funds are included for faculty and staff salary upgrades, increased operating expenses, maintenance and operations for new buildings. A major commitment will be made to accommodate enrollment growth and the backlog of physical plant needs at our universities. Some $102 million in new construction, renovations, and life and safety improvements are recommended. In short, I want to place our first emphasis where it ought to be, on maintaining, improving and properly funding our existing system and campus facilities.

Having substantially done that, I am also recommending important new construction projects on campus that will be funded in cash from the lottery. These include a new academic building at the University of Louisville for $15 million and a major expansion of the library at Northern Kentucky University for $9.1 million. I am proposing a new civil engineering building at the University of Kentucky for $11.65 million in bond funds that we anticipated will be supplemented with additional private giving. As you know, the community colleges continue to be the fastest growing part of our public higher education system. I am proposing that we complete the new community college at Owensboro with $4.5 million, construct a new academic and technical building at Henderson Community College for $4 million, and provide Hazard Community College with a $3 million academic and technical building. These too will be funded from the lottery.

I have long been an advocate for our community colleges as I know many of you have been. I believe that they have suffered from an inequity in funding within the higher education community for some time. This budget will correct that inequity. The gap between the highest funded institution and the community colleges is over 20 percent at present. That gap will be reduced to just 4.1 percent by the close of the new biennium when the community colleges will have attained their highest funding level since formula funding was initiated. That is significant progress.

I have placed a priority on putting more money into higher education not only to achieve better results, but also to provide better access to a higher education for Kentuckians. Far too many Kentuckians are denied access to higher education because they cannot afford it. That should not be.

My budget contains a new initiative called the college access program (CAP) designed for freshmen and sophomores to attend public or private colleges and universities in Kentucky. Its cost will be 12 million new dollars and will ensure that no academically qualified student is denied access to higher education due solely to a lack of money. Another new effort is our A-plus program. We are going to reward academic achievers in every high school in Kentucky. A top student at each of Kentucky's high schools will be selected by the school principal to receive a renewable $2,500 scholarship to attend any Kentucky college or university, public or private. The cost will be 3 million new dollars over the biennium. In total, my budget recommendation includes $41.7 million in general fund support for state student aid programs for the new biennium. This represents a 145 percent increase in general fund support for student aid programs during my administration.

Economic Development and Tourism

I have been committed to improving employment opportunities and the economic foundation of our state for a long time. The economic development program included in the biennial budget is one that aims beyond just the next two years. It provides economic revitalization that will carry Kentucky into the next century. I am proposing specific projects as part of a new $100 million community development bond program. The $100 million is earmarked for specific initiatives. Leading the list is $50 million for the expansion of Standiford Field in Louisville. This tremendous investment of state resources is a key to the long-term development of Louisville/Jefferson County and the surrounding area. Five million dollars will be earmarked for downtown revitalization in Paducah as part of a plan to revitalize the existing downtown area, open the floodwall for riverfront development, and tie new developments together with the existing business base in Paducah.

The other major features of the community development bond program are a $19 million commitment to the new convocation center and arena at Northern Kentucky University. This project will serve the needs of the university first. But it carries with it the potential for future expansion into a Kentucky base for an NBA pro basketball franchise.

Two projects are proposed for Bowling Green. The first is a $4 million civic and convention center, and $3.5 million will be directed to the new institute for economic development at Western Kentucky University. These efforts will boost the economy and long-term development of the entire region.

Eighteen million five hundred thousand dollars will be earmarked for the state's contribution to a new world trade and cultural center in downtown Lexington. This complex will serve the entire state and work with the economic development cabinet in a partnership to strengthen the commercial and industrial future of Kentucky in the global economy.

Beyond those earmarked projects, I am recommending that the long-standing economic development bond program be renewed with some $35 million. These funds will be for statewide economic development initiatives. I am recommending that up to $5 million of this authority be identified for tourism and agriculture enterprises to aid in the diversification of our economy. When Kentucky is seeking new investment and jobs, or seeking to retain existing jobs the incentive most often requested of us by employers is job training money. For this reason, I have recommended an expansion of the customized training program offered by the Bluegrass State Skills Corporation. With $2 million provided in a current year appropriation and expansion funds of $2 million in each year of the new biennium our most successful job training program will be strengthened. I am also recommending that we continue the $1 million job training certificate pilot program, initiated in the current biennium, to help unemployed Kentuckians who need training to get new jobs. I have included $16.on in general funds to honor in full the state's previous commitments to job training for the Toyota and Budd plants.

Perhaps most significantly in this area, I have announced the formation of a new Cabinet for Workforce Development. The goals of this cabinet are to revitalize Kentucky's job training and adult education system and make them more responsive to the marketplace. In other words, provide training for real jobs. In fact, I want to hold this program to an 80 percent effective placement standard. I am asking that the General Assembly support this reorganization by approving the enabling legislation for it.

Existing vocational programs should be re-oriented into an adult technical education system, and I have included an additional $30 million in new funding over the next biennium to make good on that policy direction. This includes some $15.8 million in program expansions and $14.3 million in lottery funds for capital construction for major programs at Ashland, Madisonville, and Lexington. We must insist that these programs be fine tuned to accurately match skills being taught to real jobs. Without a redirection, such as I am advocating, I don't think we can count on that goal being achieved.

Other key components of the workforce development initiative are assessment and placement centers in 14 regions throughout the Commonwealth. Modern equipment that is actually used on the job must be provided if the training is to be meaningful. I am recommending $3 million in additional funds to support this objective. Moreover, the Executive Budget includes $700,000 for additional evening courses in high demand locales for job training and retraining to reach non-traditional students and to accommodate the welfare reform law enacted by Congress. As with elementary and secondary education, we must do more than simply put more money into the same old programs. Therefore, I have included $1.5 million for reprogramming and redesigning curricula in the technical education area.

Often job training for single parents is critically impeded by the lack of child care services. I am recommending increases in our child care programs in the adult technical education system at a cost of approximately $900,000. The emphasis on additional technical education needs to be accompanied by a continued commitment to basic literacy. I am recommending a 45 percent increase in general fund support for the Kentucky literacy commission over the current biennium. I am also recommending $1.3 million in the new biennium to expand adult basic education to meet increased demand.

I am committed to providing job opportunities for our blind and visually impaired citizens who are now learning employment skills in an inadequate facility in Louisville. Therefore, I am recommending that we construct the new $4.5 million Rehabilitation Center for the Department for the Blind.

This budget includes first time funding for the General Tire Incentive Package extended by the Commonwealth to retain Western Kentucky's largest manufacturing employer in Graves County. I am asking your concurrence in an incentive program that will guarantee that the jobs at General Tire stay in Kentucky. I believe this to be the most innovative incentive program proposed for industrial expansion. Our commitment will be combined with a $125 million investment by General Tire to convert the facility largely to radial tire production.

There are other initiatives in the economic development area that we need to promote Kentucky. We need to continue our international trade initiatives and emphasize export promotion far better than we have before. We need to link our investment in new technology to the marketplace, and I have recommended $175,000 in the biennium for the Kentucky Technology Utilization Network which is a public/private partnership for introducing modern technology to help business. I am proposing a $4.2 million pharmacy incubation building at the University of Kentucky for university scientists to combine with entrepreneurs to make their discoveries commercially viable through real technology transfer. I am earmarking $2 million in state funds to be matched by non-state sources for the University of Louisville and University of Kentucky Engineering Schools to replace antiquated equipment and attract and retain top notice faculty.

I am ready to commit up to $250,000 each year of the biennium to match funds with the new Eastern Kentucky Job Creation Authority. These funds will help local governments in Appalachian Kentucky build their own capacity to develop their counties and their region. I want to continue the excellent new Kentucky Rural Economic Development Authority and I plan to continue to emphasize rural economic development in our marketing and advertising campaign.

I am also committed to economic diversification and state leadership in agriculture and tourism. I propose the new pride in Kentucky program to identify food grown in Kentucky with a Kentucky pride label. Tourism is one growing sector of the economy that offers opportunity for new jobs throughout Kentucky. I believe it would be helpful to develop statewide and regional master plans to target our dollars for the most impact on tourism development. I have included $925,000 for this proposal, with the first commitment to an eastern Kentucky master plan. The purpose of the plan will be to analyze current and future markets, establish clear objectives and a usable data base, develop criteria for project selection, and target the advertising budget of the Tourism Cabinet.

Transportation

Road construction is a program that will reach into every corner of the state. I am proposing a $600 million road bond program that will construct some of the major roads that have been put off for many years. For the upcoming biennium I propose a $300 million road bond package to address the following critical projects. Completion of the AA highway, finally. This bond issue will also ensure that major construction ensues on the Bowling Green-Cadiz Parkway construction and widening of U.S. 25E in Bell and Knox Counties, construction and widening of U.S. 127 along some 81.2 miles, relocation of U.S. 23 in Letcher and Pike Counties, road construction on U.S. 60 in both McCracken and Daviess Counties, major work on Kentucky 460 in Montgomery County, and major work on Kentucky 1072 at Kyles Lane in Kenton County. These projects have been on the books for years. Their needs are well documented. They are legitimate. They will cost big dollars. It is my view that not building them costs even bigger dollars in wasted opportunities and missed chances for economic stimulation and diversification. These roads should be "locked in" so that they can be completed without future concern about either timetables or priorities. That is why I have spoken in terms of a $600 million issue. I urge that you join me in resolving during this session of the General Assembly that these roads will be completely funded to their conclusions in the next two biennia. Roads of this complexity take years to build, acquire right-of-way, relocate utilities, and design. I have said before that it is very appropriate, indeed it is good planning, to issue 20 year bonds for roads such as these.

The return on investment is lasting and economic opportunities that are opened up by immediate construction start paying dividends immediately. In addition to the new road bond package, the Executive Budget recommends $20 million as a current year appropriation for additional road construction and resurfacing. In the 1990-92 biennium, I am recommending $442 million for state funded highway construction and resurfacing. In addition, I am recommending $254 million be committed to road maintenance. I have emphasized throughout this budget the importance of maintaining what we already have whether our investment be in buildings, schools, universities, parks, or whatever. The priority is equally strong in the road program. I am also proposing $20 million over the 1992 biennium, of which $16 million will be state funds for bridge construction and repair. This should be enough for approximately 200 bridges per year statewide.

I believe we should restore general fund support to the air and public transportation programs in the Transportation Cabinet. This is a 51 percent increase in general funds over the current biennium and will allow continuation of present programs in all modes of transportation.

There is one final major initiative we should remark on. Since we last met, I convened a Task Force on School Bus Safety in the wake of the Carrollton tragedy. As a financial matter, this is not a big item in the state budget. But as a matter of policy and humanity, few things we do can be of more value. The Transportation Cabinet budget includes funds to continue the driver safety program and school bus inspection initiatives recommended by the task force. Other new initiatives for school bus safety provide for school bus driver training and testing, volatile fuels testing and monitoring, and continuation of the steps previously initiated on an emergency basis.

Welfare Reform/CHR

The Cabinet for Human Resources will continue to be relied upon to provide services to the less fortunate among us and those who have not yet overcome some of the barriers to a better life. I am proposing today a program of services in the Cabinet for Human Resources that represents a hand-up, not a handout. Three hundred ninety-eight million new dollars over the biennium will be invested to lift the poorest Kentuckians out of their poverty. We will fund the federal mandates in medicaid and welfare reform. And we will fund the State Welfare Reform Program (so-called ratable reduction) initiated by this General Assembly in 1988. In the 1990-92 biennium we will be asked to spend an additional $233 million in state funds on medicaid benefits. This will extend medicaid benefits to nearly 125,000 more Kentuckians in 1992 compared to fiscal 1989. The new welfare reform initiatives coming out of Washington represent a major new commitment to reforming the welfare system. This program provides a host of services, including literacy and education, job and skill training, day care, and transition assistance as people become more self-sufficient and move into the workforce and off welfare. We will start the program this year with $1.4 million in new expenditures. But in fiscal 1991 we will need to commit over $59 million in new money to welfare reform. Coupled with this program will be a major commitment to expand child support enforcement. We will add 140 new staff to ensure that collections are made or that prosecution is assured. I strongly believe we need to enforce the child support system as a preventive to welfare and poverty, and as a legal and moral responsibility.

I believe it is important to support a well balanced program of assistance for the most vulnerable of Kentuckians. We need a combination of options suited to the individual in need ranging from assistance at home or in small group homes, to hospitalization. Toward this end, the budget I have proposed will triple the number of mental retardation respite care placements. It will add 100 alternative slots for the mentally retarded over the biennium at a cost of $7.4 million. We will build two high intensity 12-bed children's facilities and a transitional group home to reduce the backup on the residential waiting list at a cost of $2.3 million. We propose an increase in the private child care rates costing $1 million over the biennium.

We need to do something about Hazelwood. I have already received a solid and balanced proposal from Secretary Cowherd. But I want to review all of the options with you. The Executive Budget includes $12 million in construction funds to provide for a replacement plan for Hazelwood. Any such plan will need to be multi-year in its development. But we need to get on with the job now because the existing physical plant, no matter who you talk to about it, is simply inadequate.

We will fund aids and H.I.V. education services in every local health department and extend testing and counseling sites. I am proposing to broaden by $500,000, assistance to non-medicaid eligible individuals, through the Handicapped Children's Commission, for drugs for hemophilia patients with aids or who test H.I.V. positive.

Lastly, but by no means least, I propose dedicating lottery proceeds to early childhood services and to our senior citizens. Some $38 million in lottery funds are pledged for prenatal benefits to all low income women in need. We will further extend medicaid coverage for pregnant women and children up to their first birthday. We will initiate a major outreach and follow-up program for high risk pregnant women in order to reduce infant mortality and low birth weight babies. We will expand the well child services and immunizations through local health departments. This will result in two and one-half times as many children through the age of 13 receiving well child services compared to current levels. We can provide vaccines for 100 percent of the anticipated need for M.M.R. and H.I.B.

We will also initiate major new efforts for our senior citizens to reduce the prospects of premature institutionalization. Lottery funds are pledged to double our home care program for senior citizens to $15.6 million annually, $8 million of which is funded by the lottery for expansion each year. In addition, $2 million per year from the lottery will be used to quadruple the number of elderly citizens receiving adult day care/Alzheimer's respite care services.

No single budget, no matter how ambitious, can ever hope to address all of the human needs that exist in our Commonwealth. But this budget represents truly an extraordinary advancement for human service programs.

Environment

I previously announced the most far-reaching environmental protection program recommended by any Governor ever in Kentucky. I have included that program in this Executive Budget. Our environment is too precious to allow it to deteriorate. I made a strong commitment to environmental programs in my Kentucky first program. I mean to follow through on that commitment. As in so many of the initiatives in this budget this commitment will bear fruit not only in the next biennium or next few years, but well into the next century. The Department of Environmental Protection will receive a 116 percent increase in the 1990-92 Executive Budget, 116 percent. This translates into a $26.2 million general fund increase over the current biennium. We will implement our first ever comprehensive environmental management plan. The plan spans the entire range of environmental concerns — air, water, solid waste, hazardous waste, landfills, and garbage, you name it. It is comprehensive.

We will create a new Waste Management Authority with a $20 million bond issue to assist local, public, and private entities in coping with the waste management crisis. We will employ enforcement officers, inspectors, and attorneys to ensure that we absolutely minimize the amount of out-of-state waste transported to and dumped in Kentucky. We are also moving forward with respect to surface mining reclamation and enforcement. As the federal government recedes from its financial support of this program next year, we will continue to enforce the law and ensure proper reclamation. To that end, I have approved the retention of 80 of the positions funded under the natural wildlife federation settlement agreement and the continued use of the helicopter for inspection purposes.

I will support capital construction expenditures for the following programs. We will double the size of the state-owned dam repair program to $2 million. We will provide scientific laboratory equipment to support the Environmental Protection Program. We will receive and put to use over $33 million in federal funds for the Abandoned Land Reclamation Program. We will use $1.3 million in federal funds for clean-up costs on leaking underground storage tanks, the so-called Lust Program. We will continue to match in full the federal funds available for public wastewater construction projects through a $10.1 million state bond issue that will leverage over $48 million in federal funds. The overall result will be a massive new state commitment to the environment and to our natural resources. Total appropriations to the Cabinet for Natural Resources and Environmental Protection will increase by 59 percent or $37.1 million in general fund dollars alone.

Personnel Policy and Capital City Plans

No doubt, there is a lot of interest in our state personnel and payroll policy for the upcoming biennium. The Executive Budget includes full funding for the 5 percent annual pay increment each year of the new biennium. Employee health insurance benefits are continued and all budgets include a 21 percent per year increase to pay for health coverage. I am recommending $15 million in general funds over the biennium to address low pay scales adversely affecting our recruitment and retention of critical merit system positions. This will help especially in the areas of technical and scientific expertise and other sectors not competitive with the marketplace.

Finally, I wholeheartedly recommend the new $41 million centralized laboratory facility to serve four state agencies. You will remember that you appropriated $2.5 million in the current biennium to acquire a site and to do detailed planning on this facility. You may not remember that the year 1990 marks the third decade in which this facility has been planned or on the books in some fashion. Meanwhile we have lost ground in all of the highly technical and sophisticated laboratory support areas we rely on daily to support our programs. Lest anyone underestimate the importance of this facility, let me remind you that the existing State Police Crime Lab that serves all local departments as well as the Kentucky State Police is currently housed in a series of modular units here in town. They are hardly adequate for a working crime lab in the 1990's and the 21st century. The Environmental Protection Laboratory so vital to the success of our environmental management plan is housed in leased space in a former discount department store located in the flood plain of the Kentucky River. The State Health Lab and the Radiation Lab are located in a crowded, asbestos-laden facility no longer adequate for the sensitive research conducted there. It's time we brought those labs into the future.

War on Crime

The Kentucky State Police are in the front lines of the fight for a drug free Kentucky. They need some reinforcements. This budget includes funds to restore the trooper complement to 1,000 sworn personnel. I have included full funding to replace the troopers lost through retirement, as well as a new trooper class. We will fully match federal funds available for the war on drugs and commit some $9.4 million in grants to law enforcement agencies throughout the Commonwealth.

I have included additional funds for prosecutors in the Unified Prosecutorial System and the Attorney General's Office amounting to nearly $3.5 million. Both the Commonwealth and county attorneys are recommended for additional support staff, and we are beefing up the special prosecutors staff in the Attorney

General's Office. I am also approving additional attorneys in the Criminal Appellate Division of the Attorney General's Office to reduce unnecessary delay in death penalty case appeals. A special narcotic and prescription drug unit aimed at the illegal use and procurement of schedule II narcotics has been addressed in this budget in the Attorney General's Office as well.

Corrections

The result of our tough policy on crime has been that more criminals are spending longer sentences in prison. It is important that we respond fully to the need to keep serious criminals off the streets. This budget will allow us to be as tough on criminals as they are on us. The Kentucky Supreme Court last year effectively struck down the Corrections Cabinet policy of backing up state prisoners in county jails when there was no room for them in the state prisons. The budget I am proposing will take a balanced approach to providing additional prison bed space, jail bed space, halfway house and other private contracts space for minimum security inmates, and new construction. The cost of this is very high — some $65 million in new capital construction maintenance and renovations. But; the alternative, turning hardened criminals loose, costs even more. The budget includes enough funding, including a $96 million general fund biennial increase, to accommodate all known and estimated inmates coming into the state's corrections system through 1994. I am proposing a 26 percent increase in prison capacity in this budget, including construction of a $46 million medium security male institution, double-bunking of the eastern Kentucky correctional complex in Morgan County, expanding Peewee Valley for more women inmates, and continued compliance with the federal court consent decree, and other court orders.

My policy is that any new prisons we build will be built only where they are wanted and where we will be provided with an adequate infrastructure by the host county. I expect to announce the site of the new prison during this legislative session so that everyone will know where it will be and what it will cost. We have many communities actively seeking this new institution and I am confident that a good choice can be made fairly soon. The new institution will have the capability to be expanded to over 1,000 beds in a second phase.

Revenue Revitatization

We are now at the end of the part of this budget address where I talk about the programs we are putting in place. No one wishes that we could go home now more than I. But the reality is that it's time to talk about revenues. Our state's revenue structure has been deteriorating for many years. Our tax base has eroded. It is much more narrow than most other states with whom we compete. It is unresponsive to the changes in our state and national economy taking place all around us. The nationwide move away from reliance on manufacturing and durable goods and to services is not reflected in our tax base.

The corporate tax measures adopted in the 1985 Special Session on education have failed to produce the revenues estimated at that time, and fall woefully short of meeting the education and other demands of the 1990s and 21st century. The federal government has restructured its tax code substantially in recent years. The Kentucky Supreme Court has thrown out our system of elementary and secondary education. It also held our corrections system in contempt of court and forced us to pay multi-million dollar fines and suffer limitations on the number of inmates we can confine in many of our state prisons and county jails. We have been deluged with expensive federal mandates in areas such as welfare reform, medicaid, and environmental protection. Our parks in which we once took such pride, our community infrastructure and our economic base have been short-changed. They have been seriously weakened over the past 10 to 20 years. We can't solve all of these problems overnight. But we can make a new start for a new Kentucky.

In my opinion this is our best and maybe our only chance to address these concerns. Therefore, I am prepared to actively support measures to raise sufficient new revenues to meet the needs outlined in this budget. There are several criteria we must apply: (1) The new revenues must be adequate to fund the programs and meet the needs we define; (2) The measures must be fair and equitable reflecting a measure of progressivity and ability to pay; (3) It is critical that these measures be responsive to economic growth; and if they are not, you will be back again grappling with these same problems and same dilemmas every two years.

I am proposing that we enact the following revenue measures: first, Kentucky will conform to the federal tax code as outlined in the Tax Reform Act of 1986. This will generate $120 million in fiscal year 1991.

Second, we will eliminate the deductibility of federal income taxes in the calculation of Kentucky's income tax liability. To provide relief to low income taxpayers, I am proposing the enactment of a low income tax credit in conjunction with the elimination of federal tax deductibility. This low income tax credit will remove approximately 110,000 taxpayers from our tax rolls. In addition, the average Kentucky taxpayer who currently has an adjusted gross income of less than $17,500 will pay less state income tax with our credit. The majority of Kentucky taxpayers with income of less than $20,000 will get a tax break. Eliminating the deductibility of federal taxes in combination with this tax credit will generate $212 million.

Third, as I have said before, the sales tax base in Kentucky has been eroded over time through the enactment of credits, deductions, exemptions and other loopholes. It is time that we broaden our sales tax base so that sales tax receipts in Kentucky grow with the economy. The service sector is the fastest growing sector of the Kentucky economy. A sales tax on services allows revenues to grow and will avoid the need to "stop gap" tax increase in the 1990's. We have tried to stay with business and professional services and away from consumer services.

Further, to ensure adequate funding for Kentucky's future, I propose to the General Assembly a 7 cent per pack increase in the cigarette tax. Because Kentucky's current cigarette tax is one of the lowest in the county, and because only 1 and 1/2 percent of the total U.S. consumption of cigarettes occurs in Kentucky, this revenue adjustment will not negatively impact Kentucky tobacco growers. This revenue enhancement measure will raise approximately $37 million per year.

Finally, as has been well documented, Kentucky's businesses are not paying their fair share for education and other programs. Despite the actions taken in 1985, Kentucky's businesses are still contributing a smaller share to the general fund today than 10 years ago. Business leaders in this state want better education and a better workforce and they are willing to pay their fair share for education improvements. A one percentage point increase in the corporate income tax rates will ultimately raise $45 million per year.

The total revenue program I am recommending will bring in 482.6 million new dollars in fiscal year 1991 and $550.1 million in fiscal year 1992. By any objective measure, we will be able to pay for an equitable and adequate system of elementary and secondary education. Moreover, we will be able to say with assurance to the people that Kentucky is moving forward with confidence into the 1990's and the 21st century. Our objectives are many and we expect the results to be impressive.

There is another aspect to the revenue equation that cannot be ignored. The Revenue Cabinet has completed a detailed study, probably the most detailed ever in the history of the Commonwealth, concerning property taxation. This review stemmed from legislation passed by the 1988 Session of the General Assembly that will be fully implemented in the coming tax year. That study found major deficiencies in the assessment and collection of real property taxes. I fully support the Revenue Cabinet's efforts to clean up the property taxation mess in the 15 or 20 counties where they believe serious problems exist. I have recommended significant increases in the Revenue Cabinet's budget to support this effort in the new biennium, including new enforcement and training moneys, a $10 million appropriation of new money for additional property valuation experts and "circuit riders" to clean up the mess. I will not approve of any tampering with House Bill 44. The people are suspicious of any measures that would affect this law. But we must restore confidence in the property taxation system in this state. No county and no taxpayer should be asked to subsidize the dereliction of duty graphically exposed in some of our counties.

The proposals I've discussed with you this afternoon will bring Kentucky's financial house back into order, but we need one final measure to ensure financial soundness. We will need to set aside a surplus for the proverbial rainy day. This budget includes a 1 percent surplus allocation into a budget reserve trust fund. We need to set this $40 million aside and not spend it. It will be there for emergencies only. We have gone to great pains to be as positive as humanly possible that our revenue estimates are correct and achievable. Our record is sound in this regard. But it would be foolish not to plan against the day when a national recession comes, and it would be shortsighted not to anticipate the possibility of unforeseen emergencies. So I hope you will join with me in supporting this small but responsible surplus. Surely there is enough room in this budget already that we can do whatever fine tuning and make whatever changes we need to without touching the $40 million reserve.

Those are the numbers. And, while numbers are important, they are just a means to an end. The end, the whole reason we have this elaborate apparatus we call government, the reason we are all here is for people. I think it's fair to label this budget a people budget. After two years of common sacrifice, I can now report that our Commonwealth is on sound financial footing and that our budget's priorities truly reflect our people's priorities.

I want to give special thanks to the many people who have spent so much time making state government and the state budget leaner and more efficient: To Dr. Jim Ramsey, whose research and diligent efforts have made our revenue proposals solid; To Dr. Merle Hackbart who came on board late, but made extraordinary contributions to this budget; and a very special thanks to Ron Carson and Bill Hintz, two real professionals, and all the G.O.P.M. Staff who have logged countless hours, worn thousands of pencils down to their nubs and produced an accurate, honest picture of how I plan to meet our state's needs.

The old way of budgeting was to take revenue projections that looked like they came from Fantasy Island and then try to build a budget on them. That old way produced shortfalls and cutbacks and deficits. Our new truth in budgeting process has given us the first biennium in a decade without cut-backs and shortfalls.

And that's not the only thing that's changed since the December afternoon when I took my hand off that Bible and rolled up my sleeves to get to work. Since then I have fought day and night to change Kentucky, to challenge the old ways of doing things, and to bring a new era of greatness to My Old Kentucky Home. Like never before in recent years, we truly are winning in Kentucky once again. After seven straight years of trailing the rest of the nation, per capita income in Kentucky has, for the last two years, risen faster in Kentucky than the national average. Not only are we making more money, more Kentuckians are working than ever before. Those jobs are not just concentrated in a few pockets of prosperity. More than three-fourths of the new jobs we've created are in rural Kentucky. As we move into the future, we are leaving no one behind.

Think of how far we've come, Kentucky. While Massachusetts and New York and Arizona have turned their surpluses into deficits here in Kentucky we've turned a deficit into a surplus. Today, we take a back seat to no one in innovation, imagination, ingenuity. That's why the respected Wall Street Publication *Institutional Investor* named the Kentucky Yen Bond Deal as "Deal of the Year" for 1989. We didn't wait for California or look to Washington for leadership. We took the lead. And we saved the taxpayers of Kentucky millions of dollars in the bargain. Where once people went to Tennessee or Texas or Tokyo to learn the art of the deal, now they're coming to Kentucky. Since the time I called for fundamental change, or "perestroika," in our education system, Kentucky has taken the lead on that front as well. Now consultants and experts from all over the country confirm what we've known all along, that Kentucky's on the cutting edge. Where once Kentucky was falling behind, today we are surging ahead. And this budget is a blueprint to keep us moving ahead, not only into a new year, but into a new decade and a new century. Now is not the time to hesitate. Now is not the time to equivocate. Now is a time for action, bold action. The budget before you is such a plan. I urge you to approve it. Thank you and good afternoon.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, January 22, 1990.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Zimmerman. Nays 4—Curtsinger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

MONDAY, JANUARY 22, 1990

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Priddy and Little.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 18, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 2**, **SB 33**, **SB 47**, **SB 146**, **SCR 1**, **SCR 11**.

Introductions of Bills

HB 345, by Representatives A. Jones, Altman, Richards and Johnson: AN ACT relating to the Department of State Police.

HB 346, by Representatives Cyrus, Jackson, Cline and Adkins: AN ACT relating to sales and use tax.

HB 347, by Representatives Callahan, Kerr, K. Harper, McBee, Sheehan, Walker, Reinhardt and Donnermeyer: AN ACT relating to special ad valorem taxes for local governments.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 9**, **SB 94**, **HB 335**, **HCR 48**.

Appropriations and Revenue: **HB 338**, **HB 339**.

Banking and Insurance: **HB 342**.

Cities: **SB 7**, **SB 18**, **SB 102**.

Education: **HB 344**.

Elections and Constitutional Amendments: **SB 143**, **HB 336**.

Energy: **HB 334**.

Health and Welfare: **HB 341**, **HB 343**.

Judiciary: **SB 51**, **HB 337**.

Labor and Industry: **SB 54**, **SB 61**.

Transportation: **SJR 13**, **HB 340**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Resolutions has been posted for Committee consideration:

Natural Resources and Environmental Protection: **HCR 33**.

Calendar

HB 28, **HB 57**, **HB 88**, **HB 174**, **HB 180**, **HB 217**, **HB 294** and **HJR 19** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 175 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 96 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noland moved that **HB 96** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 22, 1990 roll call on **HB 96** - Appendix.)

HB 96 was passed and the title agreed to.

Representative Noland moved that the vote by which **HB 96** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 81, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Amendment No. 1 to **HB 81**. Agreed.

Representative LeMaster moved that **HB 81**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 22, 1990 roll call on **HB 81** - Appendix.)

HB 81, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 81**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 137 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 137** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 22, 1990 roll call on **HB 137** - Appendix.)

HB 137 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 137** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 31, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Floor Amendment No. 2 to **HB 31**. Agreed.

Representative Maggard moved the adoption of Committee Amendment No. 1 to **HB 31**. Agreed.

Representative Brown moved that **HB 31**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 22, 1990 roll call on **HB 31** - Appendix.)

HB 31, as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 31**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 172 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 172** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 22, 1990 roll call on **HB 172** - Appendix.)

HB 172 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 172** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HB 76**, **HB 88**, **HB 191**, **HB 217** and **HJR 19** have been posted for passage in Orders of the Day, January 23, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, January 23, 1990: **HB 175**.

The Committee on Rules reported **HB 28**, **HB 57**, **HB 180**, **HB 255** and **HB 294** have been posted for passage in Orders of the Day, January 24, 1990.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 314**, **HB 323**, **HB 329**, **SB 46**, **SCR 4**, **SCR 5**.

Natural Resources and Environmental Protection: **HB 194**.

The Clerk announced the following Bill has been withdrawn from committee consideration:

Appropriations and Revenue: **HB 222**.

Introduction of Bills

HB 348, by Representative Maggard: AN ACT relating to miners' representatives.

HB 349, by Representative Blevins: AN ACT relating to juries.

HB 350, by Representative Long: AN ACT relating to motor vehicle accident reports.

HB 351, by Representative Northup: AN ACT relating to corporations.

HB 352, by Representative L. Clark: AN ACT relating to free tuition for firefighter's relatives.

HB 353, by Representative Mack: AN ACT relating to crimes and punishments.

HB 354, by Representative Morris: AN ACT relating to state symbols.

HB 355, by Representatives Yates and Ackerson: AN ACT relating to the Kentucky Medical Assistance Program.

HB 356, by Representative McElroy: AN ACT relating to revenue and taxation.

HB 357, by Representatives Donnermeyer, Johnson, Kerr, P. Clark, Reinhardt, J. Harper, K. Harper, Walker and Callahan: AN ACT relating to the protection of unborn human life.

HB 358, by Representative Clarke: AN ACT relating to property taxation.

HB 359, by Representatives B. Richardson and Gregory: AN ACT relating to motor vehicles.

HB 360, by Representatives Rapier, Kerr and Curd: AN ACT relating to open records.

HB 361, by Representatives Rapier, Kerr and Curd: AN ACT relating to open meetings.

HB 362, by Representative Farrow: AN ACT relating to claims allowed by courts.

HB 363, by Representative Farrow: AN ACT relating to probation and conditional discharge.

HB 364, by Representative Kerr: AN ACT relating to property taxation.

Motions, Petitions and Communications (continued)

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 31, Representatives Ackerson, Curtsinger; **HB 62**, Representatives Lile, Todd; **HB 85**, Representative Lile; **HB 88**, Representative Callahan; **HB 137**, Representative Ackerson; **HB 168**, Representative Kerr; **HB 172**, Representative Ackerson; **HB 357**, Representatives Heleringer, Nett; **HJR 8**, Representative Bruce.

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions:

HB 330, Representatives Altman, Cyrus, Siler, Walker.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 88**, by Representative Butler:

Amend printed copy of **HB 88** on page 1, line 10, to delete "***of trustees***".

Floor Amendment No. 3 to **HB 113**, by Representative K. Harper:

Amend printed copy of **HB 113** on page 3, line 11, by adding after the word "***pregnant***" the following phrase:

"***provided that for any adult woman of child bearing age who has made a declaration and been diagnosed in writing as having a terminal condition, the attending physician shall cause a test to be made to determine if the woman is pregnant***".

Floor Amendment No.4 to **HB 113**, by Representative K. Harper:

Amend printed copy of **HB 113** on page 10, line 1, by inserting the subsection "***(1)***" preceding the word "***Where***".

And on page 10, between lines 21 and 22, by adding the following new subsection:

"***(2) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility the person's objection to complying with the declaration of a qualified patient on moral, religious or professional grounds, shall be required to or held liable for refusal to comply with the declaration of a qualified patient.***

(3) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member or employee who refuses to comply with the declaration of a qualified patient."

The Clerk announced the cancellation of the meeting of the Committee on Natural Resources and Environmental Protection on Tuesday, January 23, 1990.

The Clerk announced that the meeting of the Committee on Elections and Constitutional Amendments had been cancelled on January 23, 1990. The first meeting of the Committee will be January 31, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m.Tuesday, January 23, 1990.

On the roll call the vote was yeas 87—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Zimmerman. Nays 5—Bronger, Curtsinger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, JANUARY 23, 1990

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John F. Calloway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 22, 1990 be dispensed with and the same approved. Agreed.

Introduction of Bills

HB 365, by Representative Kerr: AN ACT relating to bids.

HB 366, by Representative Richards: AN ACT relating to county road engineers.

HB 367, by Representative A. Jones: AN ACT relating to crimes and punishments.

HB 368, by Representative A. Jones: AN ACT relating to liability for criminal acts.

HB 369, by Representatives Crupper, Layman, Farrow, Rapier, Kerr, Hourigan, P. Richardson, Nett, Napier, Hancock, Jackson and Curtsinger: AN ACT relating to agriculture.

HB 370, by Representatives Blevins, Cline, Mason, White, Yates, Cyrus, Nelson and B. Smith: AN ACT relating to volunteer fire departments.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 346, HB 356, HB 358, HB 362, HB 364.**

Banking and Insurance: **HB 351.**

Counties and Special Districts: **HB 347.**

Education: **HB 352.**

Elections and Constitutional Amendments: **SB 47, SB 146.**

Health and Welfare: **HB 355, HB 357.**

Judiciary: **HB 349, HB 353, HB 363.**

Labor and Industry: **HB 348.**

State Government: **SB 2, SB 33, SCR 11, SCR 1, HB 354, HB 360, HB 361.**

Transportation: **HB 345, HB 350, HB 359.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Transportation: **HB 252, HB 276, HB 315, HB 328.**

Cities: **HB 19, HB 23, HB 305.**

Report of Committees

The Committee on Energy reported **HB 265** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 265, AN ACT relating to water service and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the State Treasury an account, to be administered by the secretary, which shall be called the residential water supply revolving loan fund, and shall be comprised of appropriations, loan repayments and interest thereon, and grants and gifts from any source. Funds shall be maintained in the fund from year to year and shall not lapse. The fund shall be for the purpose of providing water service to the general public, primarily for residential use, through financing the construction of water lines by water associations regulated by the Public Service Commission pursuant to KRS 278.012. The interest rate on loans shall not exceed six percent (6%) compounded annually.

(2) Applications by water associations for loans from the fund shall be directed to the secretary on forms developed by the cabinet, and criteria for evaluating applications shall include availability of water supply, public health and convenience, capacity of an association to complete construction on a timely basis, and the projected capacity of an association to repay principal and interest in no more than ten (10) years.

Section 2. There is appropriated, for the purpose of establishing a residential water supply revolving loan fund administered by the secretary for natural resources, two hundred and fifty thousand dollars ($250,000) in fiscal year 1990-91, and two hundred and fifty thousand dollars ($250,000) in fiscal year 1991-92.

The Committee on Health and Welfare reported **HB 101**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 101, AN ACT relating to prescription drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) All prescriptions issued by a physician for oral medication shall contain:

(a) The name of the medication;

(b) The condition for which the medication is prescribed, unless the patient instructs otherwise; and

(c) All other information required by law.

(2) All labels for oral medication filled by a pharmacist shall contain the information required by subsection (1) of this section.

The Committee Substitute to **HB 101** is as follows:

HB 101, AN ACT relating to prescription drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) All prescriptions issued by a practitioner authorized to prescribe oral medication may contain:

(a) The name of the medication;

(b) The symptoms and conditions for which the medication is prescribed, if the patient so requests of the practitioner; and

(c) All other information required by law.

(2) All labels for oral medication filled by a pharmacist shall contain the information provided for under subsection (1) of this section.

The Committee on Health and Welfare reported **HB 62**, with Committee Substitute attached thereto, **HB 107**, with Committee Substitute attached thereto, and **HB 167**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 62, AN ACT relating to mammography.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The term "mammogram" shall mean an x-ray examination of the breast using equipment dedicated specifically for mammography, including, but not limited to, the x-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of one (1) rad mid-breast, two (2) views of each breast.

(2) All insurers issuing individual health insurance policies in this state which provide coverage on an expense incurred basis for surgical services for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after the effective date of this Act shall also provide coverage for low-dose mammography screening performed on dedicated equipment for diagnostic purposes on referral by a health care practitioner acting within the scope of such practitioner's licensure. The coverage shall make available one (1) screening mammogram to persons age thirty-five (35) through thirty-nine (39); one (1) mammogram every two (2) years for persons ages forty (40) through forty-nine (49); and one (1) mammogram per year for a person fifty (50) years of age and over and may be limited to a benefit of fifty dollars ($50) per mammogram subject to such dollar limitations, deductibles and co-insurance factors as are no less favorable than for physical illness generally.

(3) The mammogram shall be performed by a state certified radiologic technologist or an American Registry of Radiologic Technology registered radiologic technologist, interpreted by a qualified radiologist, and performed under the direction of a person licensed to practice medicine and certified by the American Board of Radiology. Two (2) copies of the mammogram report shall be sent to the health care practitioner who ordered it, and one (1) copy shall be given to the patient. The mammography film shall be retained by the facility performing the examination in accordance with guidelines of the American College of Radiology.

(4) Effective January 1, 1994, any facility in which mammograms are performed for reimbursement under this Act shall meet current criteria of the American College of Radiology Mammography Accreditation Program.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers issuing group or blanket health insurance policies and certificates in this state providing coverage on an expense incurred basis for surgical services for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after the effective date of this Act shall also provide coverage for low-dose mammography screening as provided in Section 1 of this Act. The coverage shall meet the standards set forth in Section 1 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All non-profit hospital, medical-surgical, dental, and health service corporations issuing contracts in this state which provide hospital, medical, or surgical expense benefits for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after the effective date of this Act shall also provide coverage for low-dose mammography screening as provided under Section 1 of this Act. The coverage shall meet the standards set forth in Section 1 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations issuing contracts in this state which provide hospital, medical, or surgical expense benefits for surgical services for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after the effective date of this Act shall also provide coverage for low-dose mammography screening as provided under Section 1 of this Act. The coverage shall meet the minimum standards set forth in Section 1 of this Act.

The Committee Substitute to **HB 62** is as follows:

HB 62, AN ACT relating to mammography.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The term "mammogram" shall mean an x-ray examination of the breast using equipment dedicated specifically for mammography, including, but not limited to, the x-ray tube, filter, compression device, screens,

film and cassettes, with two (2) views of each breast and with an average radiation exposure at the current recommended level as set forth in guidelines of the American College of Radiology.

(2) All insurers issuing individual health insurance policies in this Commonwealth which provide coverage on an expense incurred basis for surgical services for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after the effective date of this Act shall also provide coverage for low-dose mammography screening for persons who have no sign or symptom of breast cancer and when performed on dedicated equipment which meets the guidelines established by the American College of Radiology and upon self referral or on referral by a health care practitioner acting within the scope of such practitioner's licensure. The coverage shall make available one (1) screening mammogram to persons age thirty-five (35) through thirty-nine (39); one (1) mammogram every two (2) years for persons ages forty (40) through forty-nine (49); and one (1) mammogram per year for a person fifty (50) years of age and over and may be limited to a benefit of fifty dollars ($50) per screening mammogram subject to such dollar limitations, deductibles and co-insurance factors as are no less favorable than for physical illness generally.

(3) The mammogram shall be performed by a Kentucky State Certified General Certificate Radiographer or an American Registry of Radiologic Technology Registered Radiographer, interpreted by a qualified radiologist, and performed under the direction of a person licensed to practice medicine and certified by the American Board of Radiology. Two (2) copies of the mammogram report shall be sent to the health care practitioner who ordered it, one (1) copy of which shall be given to the patient. In case of self-referral, one (1) copy of the mammogram report shall be given to the patient upon request. The mammography film shall be retained by the facility performing the examination in accordance with guidelines of the American College of Radiology.

(4) Effective July 15, 1991, any facility in which mammograms are performed for reimbursement under this Act shall meet current criteria of the American College of Radiology Mammography Accreditation Program.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers issuing group or blanket health insurance policies and certificates in this Commonwealth providing coverage on an expense incurred basis for surgical services for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for low-dose mammography screening as provided in Section 1 of this Act. The coverage shall meet the standards set forth in Section 1 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All non-profit hospital, medical-surgical, dental, and health service corporations issuing contracts in this Commonwealth which provide hospital, medical, or surgical expense benefits for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for low-dose mammography screening as provided under Section 1 of this Act. The coverage shall meet the standards set forth in Section 1 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations issuing contracts in this Commonwealth which provide hospital, medical, or surgical expense benefits for surgical services for a mastectomy and which are delivered, issued for delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for low-dose mammography screening as provided under Section 1 of this Act. The coverage shall meet the minimum standards set forth in Section 1 of this Act.

HB 107, AN ACT relating to nursing providing for the creation and operation of a scholarship fund to be known as the Kentucky Nursing Incentive Scholarship Fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Nursing Incentive Scholarship Fund.

(2) It is the intent of the general assembly of the Commonwealth of Kentucky to alleviate the shortage of nurses within the Commonwealth; further it is the intent of the general assembly to give preference for these scholarships to low-income, unemployed residents and licensed practical nurses of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The board shall make nursing scholarships in two (2) and four (4) year nursing degree programs available to persons through the Kentucky nursing incentive scholarship fund, as set forth by this Act and by administrative regulations of the board promulgated pursuant to KRS Chapter 13A.

(2) The board shall administer the Kentucky nursing incentive scholarship fund. The board shall be responsible for receiving and evaluating all applications for the scholarship made by persons who are bona fide residents of the Commonwealth and who desire to become registered nurses. The board shall evaluate each application to determine if the applicant complies with criteria for such scholarships as set forth in this Act and in administrative regulations of the board.

(3) Applications from all persons determined to be qualified shall be forwarded to the Kentucky nursing incentive scholarship fund committee to be comprised of three (3) members, one (1) representative each from the Kentucky hospital association, the Kentucky association of health care facilities and the board, which shall designate the persons to receive assistance and the amount thereof. Decisions of the Kentucky nursing incentive scholarship fund committee in these matters shall be final. Disbursement of funds shall be pursuant to a written contract between the board, sponsoring hospital or long-term care facility and the applicant.

(4) The board shall be responsible for contracting with nursing schools, both public and private, for the admission of approved students and enforcement of contracts entered into pursuant to this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) Funding for the Kentucky nursing incentive scholarship fund shall be supplied partly by funds received from penalties, to include but not be limited to, certificate of need penalties assessed on hospitals, skilled and intermediate care nursing homes under the provisions of KRS 216.560 and 216B.131(2). These funds shall be matched by hospitals or long-term care facilities participating in the Kentucky nursing incentive scholarship fund program.

(2) Additional funding shall be provided by an assessment of five dollars ($5) to be added to each nurse licensure renewal application fee payable to the board, proceeds of which shall be allocated to the Kentucky nursing incentive scholarship fund. At least twenty-five percent (25%) of said proceeds shall be earmarked for financial assistance to licensed practical nurses seeking registered nurse licensure, whether in a two (2) or four (4) year program.

(3) Any individual accepted for a nursing scholarship provided for under this Act, shall, upon completion of the nursing program, be required by contract to practice as a registered nurse in the sponsoring Kentucky hospital or long-term care facility for one (1) year for each academic year of education received. The contract shall include such terms and conditions specified by the board to carry out the purpose and intent of this Act and shall be signed by the board president, sponsoring hospital or long-term care facility and the applicant.

(4) The board may cancel any contract between it and any applicant upon failure by the applicant to meet requirements of this Act or board administrative regulations. Failure to complete the terms of the contract shall subject the applicant to legal action for the recovery of all assistance provided, together with attorney fees and interest at a compound rate of eight percent (8%) from the date of disbursement from the Kentucky nursing incentive scholarship fund.

Section 4. KRS 216.560 is amended to read as follows:

(1) Where a licensee has failed to correct a type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that such deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) Where a licensee has failed to correct a type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that such deficiency continues beyond the date specified for correction.

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for and paid a fine for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in ***the Kentucky nursing incentive scholarship fund*** [~~a trust and revolving fund, which is hereby created, and the balance of said fund shall lapse at the end of the fiscal year to the general fund~~].

Section 5. KRS 216B.131 is amended to read as follows:

(1) All moneys derived from applicants seeking certificates of need or licenses or from any other sources connected with this chapter shall be promptly paid over to the state treasurer, who shall deposit such moneys in a special fund which, in addition to appropriated funds, shall be used to carry out the purposes of this chapter and for no other purpose.

(2) Any fine imposed for the violation of this chapter shall, when collected, be paid into the ***Kentucky nursing incentive scholarship*** [~~general~~] fund.

The Committee Substitute to **HB 107** is as follows:

HB 107, AN ACT relating to nursing providing for the creation and operation of a scholarship fund to be known as the Kentucky Nursing Incentive Scholarship Fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Nursing Incentive Scholarship Fund.

(2) It is the intent of the General Assembly of the Commonwealth of Kentucky to alleviate the shortage of nurses throughout the Commonwealth; further it is the intent of the General Assembly to give preference for these scholarships in Kentucky nursing programs to low-income, unemployed residents and licensed practical nurses of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The board shall make nursing scholarships in schools of practical nursing and in two (2) and four (4) year nursing degree programs in Kentucky nursing programs available to Kentucky residents through the Kentucky nursing incentive scholarship fund, as set forth by this Act and by administrative regulations of the board promulgated pursuant to KRS Chapter 13A.

(2) The board shall administer the Kentucky nursing incentive scholarship fund. The board shall be responsible for receiving and evaluating all applications for the scholarship made by persons who are bona fide residents of the Commonwealth and who desire to become registered nurses. The board shall evaluate each application to determine if the applicant complies with criteria for such scholarships as set forth in this Act and in administrative regulations of the board.

(3) Applications from all persons determined to be qualified shall be forwarded to the Kentucky nursing incentive scholarship fund committee to be comprised of six (6) members, one (1) registered nurse and one (1) practical nurse licensed to practice in the Commonwealth who shall be appointed by the board, and one (1) representative each from the Kentucky Hospital Association, the Kentucky Primary Care Association, the Kentucky Association of Health Care Facilities and the board, which shall designate the persons to receive assistance and the amount thereof. Decisions of the Kentucky nursing incentive scholarship fund committee in these matters shall be final. Disbursement of funds shall be pursuant to a written contract between the board, sponsoring hospital, primary care center or long-term care facility and the applicant.

(4) The board shall be responsible for contracting with nursing schools, both public and private, for the admission of approved students and enforcement of contracts entered into pursuant to this section. The maximum yearly individual nursing scholarship award granted shall be no higher than the yearly tuition rate charged for a comparable program offered by a public institution in the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) Funding for the Kentucky nursing incentive scholarship fund shall be supplied partly by funds received from penalties and fines, to include, but not be limited to, certificate of need penalties assessed on primary care centers, hospitals, skilled and intermediate care nursing homes under the provisions of KRS 216.560 and 216B.131(2). These funds shall be matched by primary care centers, hospitals or long-term care facilities participating in the Kentucky nursing incentive scholarship fund program.

(2) Additional funding shall be provided by an assessment of five dollars ($5) to be added to each nurse licensure renewal application fee payable to the board, proceeds of which shall be allocated to the

Kentucky nursing incentive scholarship fund. At least twenty-five percent (25%) of said proceeds shall be earmarked for financial assistance to licensed practical nurses seeking registered nurse licensure, whether in a two (2) or four (4) year program.

(3) Any individual accepted for a nursing scholarship provided for under this Act, shall, upon completion of the nursing program, be required by contract to practice as a registered nurse or licensed practical nurse in the sponsoring primary care center, Kentucky hospital or long-term care facility for one (1) year for each academic year of education received. The contract shall include such terms and conditions specified by the board to carry out the purpose and intent of this Act and shall be signed by the board president, sponsoring primary care center, hospital or long-term care facility and the applicant.

(4) The board may cancel any contract between it and any applicant upon failure by the applicant to meet requirements of this Act or board administrative regulations. Failure to complete the terms of the contract shall subject the applicant to legal action for the recovery of all assistance provided, together with attorney fees and interest at a compound rate of eight percent (8%) from the date of disbursement from the Kentucky nursing incentive scholarship fund.

Section 4. KRS 216.560 is amended to read as follows:

(1) Where a licensee has failed to correct a type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that such deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) Where a licensee has failed to correct a type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that such deficiency continues beyond the date specified for correction.

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for and paid a fine for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in ***the Kentucky nursing incentive scholarship fund*** [~~a trust and revolving fund~~], which is hereby created, and the balance of ***that*** [~~said~~] fund shall ***not*** lapse at the end of the fiscal year to the general fund.

Section 5. KRS 216B.131 is amended to read as follows:

(1) All moneys derived from applicants seeking certificates of need or licenses or from any other sources connected with this chapter shall be promptly paid over to the state treasurer, who shall deposit such moneys in a special fund which, in addition to appropriated funds, shall be used to carry out the purposes of this chapter and for no other purpose.

(2) Any fine imposed for the violation of this chapter shall, when collected, be paid into the ***Kentucky nursing incentive scholarship*** [~~general~~] fund.

HB 167, AN ACT relating to support dogs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.500 is amended to read as follows:

(1) When a blind person is accompanied by a guide dog, neither the blind person nor the dog shall be denied admittance to any hotel, motel, restaurant or eating establishment, nor shall the blind person be denied full and equal accommodations, facilities and privileges of all public places of amusement, theater or resort when accompanied by a guide dog.

(2) Any blind person accompanied by a guide dog shall be entitled to full and equal accommodations on all public transportation, ***if*** [~~provided that~~] the guide dog shall not occupy a seat in any public conveyance, nor endanger the public safety.

(3) ***The*** [~~Such~~] blind person shall not be required to pay additional charges or fare for the transportation of any accompanying guide dog.

(4) Any blind person accompanied by a guide dog shall not be denied admittance and use of any public building, nor denied the use of any elevator operated for public use.

(5) Any blind person accompanied by a guide dog may keep ***the*** [~~such~~] animal in his or her immediate custody while a tenant in any apartment, or building used as a public lodging.

(6) The provisions of this section shall not apply unless the guide dog has been trained by a recognized training agency or school, and is properly harnessed.

(7) All blind persons accompanied by [~~such~~] a trained guide dog ***shall*** [~~must~~] have in their personal possession a certificate issued by the guide dog training agency or school establishing that ***their dogs have*** [~~his dog has~~] been so trained.

(8) The provisions of this section shall not apply unless the blind master complies with the legal limitations applicable to sighted persons and unless all requirements of KRS 258.015, 258.135 and 258.145 have been complied with.

(9) The provisions of this section shall also apply to any deaf person accompanied by a dog trained to aid the deaf. As used in this section, "deaf person" means a person described in KRS 30A.410(1)(a).

(10) The provisions of this section shall also apply to any mobility impaired person accompanied by a dog trained to provide support or assistance for a mobility impaired person. As used in this section, "mobility impaired person" means any person, regardless of age, who is subject to a physiological defect or deficiency, regardless of its cause, nature or extent, that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise or to perform any related function.

The Committee on State Government reported **HB 48, HB 68, HB 84, HB 91, HB 232, HCR 6,** with Committee Amendment attached thereto, **HJR 8** and **HCR 22** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 48, AN ACT relating to the Kentucky Historical Society.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the responsibilities set forth in KRS 171.311, the Kentucky Historical Society shall collect, maintain, preserve, categorize and cause to be published necessary information concerning Kentucky historic stone fences, in recognition of the historical importance of the unknown builders.

(2) The society shall adopt any administrative regulations necessary to carry out the purposes of this section.

(3) Nothing in this section shall be construed to affect private rights or procedures generally available to the public.

HB 68, AN ACT relating to records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.660 is amended to read as follows:

(1) ***When*** [~~Whenever~~] the Governor, Lieutenant Governor or any state agency or subdivision or the principal officer thereof[~~,~~] shall reproduce and preserve for record any records or papers by photographic, microphotographic, ***nonerasable optical image,*** or other process which accurately reproduces the original records, which forms a durable medium, and which is performed in accordance with rules and regulations promulgated by the department, the original [~~thereof~~] may be disposed of or destroyed.

(2) Any such reproductions shall be deemed the originals of the records or papers for all purposes, and any facsimiles, certified copies or reproductions thereof, or any prints or enlargements of the reproductions, shall be admissible as evidence in any court or proceeding of this Commonwealth, and shall be prima facie evidence of the facts set forth in and the contents of the original records or papers.

Section 2. KRS 422.105 is amended to read as follows:

(1) If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the

regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, ***nonerasable optical image,*** or other process which accurately reproduces or forms a durable medium for [~~so~~] reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. ***The*** [~~Such~~] reproduction, when satisfactorily identified, ***shall be*** [~~is~~] as admissible in evidence as the original itself in any judicial or administrative proceeding, whether the original is in existence or not, and an enlargement or facsimile of ***the*** [~~such~~] reproduction ***shall*** [~~is~~] likewise ***be*** admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, ***shall*** [~~does~~] not preclude admission of the original.

(2) This section shall be [~~so~~] interpreted and construed [~~as~~] to effectuate its general purpose of making uniform the law of those states which enact it.

HB 84, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) The Legislative Research Commission may provide access to computerized legislative data bases and information to individuals and organizations that are not a part of the legislative branch of government. The Legislative Research Commission may promulgate administrative regulations to implement this section, including a system of fees and charges for access and services. The Legislative Research Commission shall impose such conditions and restrictions upon nonlegislative access and services as it determines necessary.

(2) No person, organization, corporation or other entity shall receive access to legislative computer information, nor receive related services including the copying of computerized information, without first applying to the Legislative Research Commission and entering into an agreement with the Legislative Research Commission to provide such access or services.

HB 91, AN ACT relating to the Kentucky Information Systems Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Systems Commission, ***hereafter*** [~~hereinafter in this section and KRS 61.950~~] called the commission. It shall be the responsibility of the commission to coordinate, on a statewide level, strategic planning for computerized information systems in state government.

(2) The commission shall consist of:

(a) Three (3) officers of the Finance and Administration Cabinet which shall include the secretary of the cabinet and the commissioners of the Department of Administration and Department of Information Systems or their respective designees;

(b) The state budget director or his designee;

(c) The Secretary of State or his designee;

(d) The State Treasurer or his designee;

(e) The Attorney General or his designee;

(f) The director of the Administrative Office of the Courts or his designee;

(g) The Auditor of Public Accounts or his designee;

(h) The state librarian or his designee;

(i) ***The executive director of the Council on Higher Education or his designee;***

(j) One (1) representative of the Kentucky Association of Counties appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Counties;

(k)[~~(j)~~] One (1) representative of the Kentucky [~~Municipal~~] League ***of Cities*** appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky [~~Municipal~~] League ***of Cities***;

(l)[~~(k)~~] One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association; and

(m)[~~(l)~~] Three (3) citizen members appointed by the governor.

(3) A member of the commission ***shall*** [~~may~~] not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the automated information industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(4) It ***shall be*** [~~is~~] a ground for removal of a member of the commission if the member violates a prohibition established by subsection (3) of this section. The validity of an action of the committee ***shall*** [~~is~~] not ***be*** affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a commission member exists, the chairman shall notify the Governor of the potential ground for removal.

(5) The term of office of the members specified in subsection (2)(a) to (h) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(6) Appointed members of the commission shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. ***If*** [~~In the event~~] a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 2. KRS 61.950 is amended to read as follows:

(1) The commission shall meet at least four (4) times each year. It shall select from its membership a chairman and any other officers it considers essential. In addition, the commission, upon the call of its officers, may hold meetings at ***any*** [~~such~~] time [~~as~~] it deems necessary.

(2) The commission's duties shall include the following:

(a) Formulation of a statewide ***information resources management*** [~~electronic data processing~~] plan from long range ***information resources management*** [~~electronic data processing~~] plans submitted by the three (3) branches and constitutional offices of government, ***including the public universities,*** as the commission may require. This plan shall take into account projected ***information resource requirements of*** [~~data processing by~~] the Commonwealth of Kentucky and all its ***public universities,*** departments, officers, agencies and subdivisions, with particular emphasis on coordination of strategic planning for computerized information systems and state and local government information transfers;

(b) Recommending procedures and legislation to improve the accessibility of machine readable public records; and

(c) Recommending procedures and legislation to insure the privacy of individuals, with particular emphasis on the potential for invasion of individual privacy.

(3) The commission shall have a permanent staff to assist it in the formulation of the statewide electronic data processing plan and to provide necessary support for its research activities. Permanent staff shall be knowledgeable in the management of information systems. To accomplish the commission's work, all ***public universities,*** departments, divisions, agencies and officers of the Commonwealth shall furnish the commission necessary assistance, resources, information, records or advice as it may require which is pertinent to the subject matter being studied. The commission shall report its findings and recommendations to the Legislative Research Commission on a quarterly basis. All reports of the commission shall be made readily available to the general public.

(4) Nothing in KRS 61.940, 61.945 or this section shall be construed to alter or diminish the provisions

of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

(5) The commission may promulgate necessary administrative regulations for the furtherance of this section.

HB 232, AN ACT relating to retirement sick leave credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the board of trustees of the Kentucky Retirement Systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705. [~~Accumulated sick leave in excess of six (6) months shall be added to the member's service credit if the member pays to the retirement system the value of the additional service credit based on the formula adopted by the board. All of a state policeman's sick leave balance, expressed in months, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652.~~]

(3) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the board that a sick leave program has been formally adopted and is universally administered within the agency.

HCR 6, A CONCURRENT RESOLUTION to create a task force to study a proposal to establish a geographic information system (GIS) and a global positioning system (GPS) oriented geodetic reference system for the Commonwealth of Kentucky.

WHEREAS, there is a need for an improved land survey and mapping system which can aid land transfers, furnish a basis for more equitable taxation, and provide necessary information for resource management and environmental planning; and

WHEREAS, the Navstar Global Positioning system is being developed by the United States Department of Defense to utilize satellites to precisely locate objects on the surface of the earth; and

WHEREAS, to use the GPS effectively, the National Geodetic Survey stations throughout the Commonwealth must be reviewed to determine suitability with the Global Positioning System; and

WHEREAS, a highly accurate geographic information system (GIS) can result by the use of the global positioning system (GPS) technology for the benefit of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the GIS/GPS Task Force is created to study a geographic information system and a global positioning system oriented geodetic reference system for the Commonwealth. The membership of the task force shall include:

(1) Two (2) members of the General Assembly chosen by the Legislative Research Commission and representative of the two (2) political parties polling the greatest number of votes in the state at general elections. The Legislative Research Commission shall appoint one of these members to serve as the chairperson of the task force.

(2) Five (5) members appointed by the Governor and representing the following executive branch agencies:

(a) A representative of the Transportation Cabinet office which regulates airports;

(b) A representative of the Transportation Cabinet office which regulates highways;

(c) A representative of the Natural Resources and Environmental Protection Cabinet which regulates surface coal mining;

(d) A representative of a state university who is knowledgeable about the use of satellites to conduct land surveys and geographic information systems; and

(e) A representative of the Kentucky Geological Survey.

(3) In addition, the Legislative Research Commission shall appoint to the task force a representative from each of the following:

(a) The largest organization in Kentucky representing land surveyors; and

(b) The largest organization in Kentucky representing professional engineers.

Section 2. That the purpose of the task force shall be to study and make recommendations to the 1992 General Assembly of the Commonwealth of Kentucky on a proposal to establish a geographic information system and a geodetic reference system for Kentucky which can utilize the global positioning system.

Section 3. The recommendations of the task force shall be submitted to the Legislative Research Commission by September 1, 1991.

Section 4. The Kentucky Geological Survey shall designate staff to provide technical assistance to the task force. The Legislative Research Commission shall provide administrative support services to the task force.

Section 5. Legislative Research Commission staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 to **HCR 6** is as follows:

Amend printed copy of **HCR 6** on page 3, line 6, by deleting after the word "surveyors;" the following: "and"; and

On page 3, line 8, by inserting after the word "engineers" the following: "and (c) The largest organization in Kentucky representing professional planners".

HJR 8, A JOINT RESOLUTION appointing Thomas D. Clark, Ph.D. to the honorary position of Historian Laureate of Kentucky.

WHEREAS, Thomas D. Clark, born July 14, 1903, in Louisville, Mississippi, adopted the Commonwealth of Kentucky as his true home and set out to document her rich history and traditions for generations to come; and

WHEREAS, Dr. Clark has brought a new dimension to the study of Kentucky history in that he has experienced during his lifetime many of the tumultuous and important events of our past, and has personally known so many of the individuals who have shaped our heritage; and

WHEREAS, his contagious enthusiasm has made the study of history exciting for thousands of students during his long tenure at the University of Kentucky; and

WHEREAS, a prolific author, Dr. Clark wrote the classic textbook on Kentucky history, HISTORY OF KENTUCKY, in 1937, and has written countless books and articles since that time, all of which are universally regarded as being complete, accurate, well researched and, most importantly, interesting; and

WHEREAS, a true scholar with impeccable academic credentials, Dr. Clark has produced works which provide an insight into the people and places which make the south so special; and

WHEREAS, Dr. Clark has been and remains extremely active in professional circles, was instrumental in the formation of the University of Kentucky Press, is regarded as the father of the Kentucky State Archives and has been particularly involved with the University of Kentucky's Kentuckiana Collection, the Kentucky Historical Society and the State Oral History Commission; and

WHEREAS, Dr. Clark, like our bountiful land, lakes, mountains and streams, is a unique Kentucky resource deserving of the highest honor;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Commonwealth of Kentucky establishes the honorary office of Historian Laureate of Kentucky and appoints for the period of his natural life the distinguished professor and historian, Thomas D. Clark, Ph.D., to be the exclusive holder of that office in grateful appreciation for all he has done for the citizens and the Commonwealth of Kentucky.

Section 2. That the Clerks of the Senate and the House of Representatives send a copy of this resolution to Thomas D. Clark, Ph.D., 248 Tahoma Road, Lexington, Kentucky 40503; Dr. David Roselle, President, University of Kentucky, Limestone Street, Lexington, Kentucky 40506; and Robert B. Kinnaird, Director, Kentucky Historical Society, Old Capitol Annex, Frankfort, Kentucky 40601.

HCR 22, A CONCURRENT RESOLUTION requesting the Legislative Research Commission to re-establish the Subcommittee on Veterans' Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the present committee structure of the Kentucky General Assembly does not allow proper attention to be paid to these concerns; and

WHEREAS, the Subcommittee to Study Problems of Vietnam Veterans in Kentucky requested the Legislative Research Commission to establish a permanent committee on veterans' affairs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Legislative Research Commission is requested to establish a Subcommittee on Veterans' Affairs to operate during the 1990-91 interim and present its recommendations to the Kentucky General Assembly.

Section 2. It is recommended that this subcommittee be appointed by the Legislative Research Commission.

The Committee on Judiciary reported **HB 179**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 179, AN ACT relating to actions for damages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.188 is amended to read as follows:

(1) This section shall apply to all actions for damages, whether in contract or tort, commenced after July 15, ***1990*** [~~1988~~].

(2) At the commencement of an action seeking to recover damages, it shall be the duty of the plaintiff or his attorney to notify, by certified mail, those parties believed by him to hold subrogation rights to any award received by the plaintiff as a result of the action. The notification shall state that a failure to assert subrogration rights by intervention, pursuant to Kentucky Civil Rule 24, will result in a loss of those rights with respect to any final award received by the plaintiff as a result of the action.

(3) Collateral source payments, except life insurance, the value of any premiums paid by or on behalf of the plaintiff for same, and known subrogation rights shall be an admissible fact in any civil trial. ***The identity of a subrogated health care payor may be excluded from evidence subject to judicial discretion concerning issues of economics and prejudice.***

(4) A certified list of the parties notified pursuant to subsection (2) of this section shall also be filed with the clerk of the court at the commencement of the action.

The Committee Amendment No. 1 to **HB 179** is as follows:

Amend printed copy of **HB 179** on page 1, line 21, following the word "***prejudice***" to add the following, "***provided the amount of medical damages has been stipulated***".

The Committee on Agriculture and Small Business reported **HB 75**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 75, AN ACT relating to thistles and weeds and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 249.190 is amended to read as follows:

If any person who holds land on which Canada or nodding thistles are growing and likely to ripen seed, neglects or refuses to cut and destroy them, [~~any person who considers himself aggrieved or about to be injured by the neglect or refusal, or~~] the Commissioner of Agriculture pursuant to subsection (2) of KRS 249.183, shall give ***fifteen (15)*** [~~five (5)~~] days' notice in writing to the person who holds the land, to cut and destroy the Canada or nodding thistles. On the neglect or refusal of the person who holds the land to cut and destroy them at the end of ***fifteen (15)*** [~~five (5)~~] days, [~~any person aggrieved, or believing himself about to be injured, or~~] the Commissioner of Agriculture may enter upon or hire other persons to enter upon the land and cut down and destroy the Canada or nodding thistles. The persons so employed may recover from the person who holds the land ***the reasonable costs of the eradication***[~~, compensation at the rate of fifteen dollars ($15.00) per day~~].

Section 2. KRS 249.195 is amended to read as follows:

All public utilities, the State Highway Department, the county judge/executive, railroads, drainage districts, school districts, road districts***, game preserves,*** and other public and quasi-public corporations and every landowner in thistle eradication areas shall:

(1) Control and eradicate Canada and nodding thistles and prevent their regrowth and reinfestation on all lands, rights of way and easements owned, occupied or controlled by them;

(2) Employ methods of control and eradication and for the prevention of the regrowth and reinfestation of [~~such~~] thistles ***by April 15 of each year in those counties in the Central Time Zone and by April 25 of each year in those counties in the Eastern Time Zone*** as directed by the Commissioner of Agriculture or the county thistle control board; ***and***

(3) Comply with all orders, rules and regulations promulgated by the Commissioner of Agriculture pursuant to KRS 249.183 to 249.195 and 249.991.

Section 3. KRS 176.051 is amended to read as follows:

[~~(1)~~] The Department of Highways ***shall*** [~~may~~] keep all state rights-of-way free of the species of grass, Sorghum halepense, commonly known as Johnson grass, and the species of weed commonly known as giant foxtail, both of which are noxious weeds, and the thistles Cirsium arvense and Carduus nutans, commonly known as Canada thistles and nodding thistles, respectively, [~~and~~] multiflora rose***, honeysuckle, kudzu, sunflower, wild cumcumber, and black nightshade***; and, upon written request***, shall give priority to*** [~~from~~] any abutting property owner engaged in a program of eradication of Johnson grass, giant foxtail, Canada thistles, nodding thistles***,*** [~~or~~] multiflora rose, ***honeysuckle, kudzu, sunflower, wild cumcumber, and black nightshade; and*** shall cooperate with ***the*** [~~such~~] abutting owner by eradicating ***the*** [~~such~~] Johnson grass, giant foxtail, Canada thistles, nodding thistles, [~~or~~] multiflora rose***, honeysuckle, kudzu, sunflower, wild cumcumber, and black nightshade*** from abutting state rights-of-way. The department shall take steps to eradicate ***this*** [~~such~~] grass ***and these weeds***[~~, weed~~] or thistles by the use of chemicals or any other means found to be effective by the department.

(2) The Department of Highways shall inform property owners of the availability of ***the*** [~~said~~] eradication program. In carrying out this responsibility the department shall, no later than the first week in March of every year, advertise in each county, pursuant to the provisions of KRS Chapter 424 that the program is available. The department shall stipulate in ***the*** [~~such~~] advertisement the place and manner in which an interested property owner may make a written request for inclusion in the program.

Section 4. KRS 249.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 249.020 to 249.100 or hinders the carrying out of any of the provisions of those sections shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500).

(2) Any fine imposed for a violation of subsection (3) of KRS 249.070 may be recovered in the county in which the nursery is situated or the county to which the nursery stock is shipped.

(3) Any person who knowingly neglects or refuses to comply with the provisions of KRS 249.180 or 249.190 shall be fined ***not less than fifty dollars ($50.00) nor more than five hundred dollars ($500). Each day of violation after the notice provided in KRS 249.190 shall be a separate offense*** [~~five dollars ($5.00)~~].

Section 5. KRS 249.991 is amended to read as follows:

(1) Any person who interferes with or attempts to prevent the Commissioner of Agriculture from exercising any of his powers under KRS 249.183 to 249.195 shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months.

(2) Any person who violates any regulation prescribed by the Commissioner under KRS 249.183 to 249.195 shall be fined not ***less than fifty dollars ($50.00) nor*** more than five hundred dollars ($500) or imprisoned not more than six (6) months or both so fined and imprisoned. ***Each day of violation after the notice provided in KRS 249.190 shall be a separate offense.***

Section 6. Whereas, the methods of controlling and eradicating thistles are most effectively applied in the month of April, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 75** is as follows:

HB 75, AN ACT relating to thistles and weeds and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 249.190 is amended to read as follows:

If any person who holds land on which Canada or nodding thistles are growing and likely to ripen seed, neglects or refuses to cut and destroy them, [~~any person who considers himself aggrieved or about to be injured by the neglect or refusal, or~~] the Commissioner of Agriculture pursuant to subsection (2) of KRS 249.183, shall give ***fifteen (15)*** [~~five (5)~~] days' notice in writing to the person who holds the land, to cut and destroy the Canada or nodding thistles. On the neglect or refusal of the person who holds the land to cut and destroy them at the end of ***fifteen (15)*** [~~five (5)~~] days, [~~any person aggrieved, or believing himself about to be injured, or~~] the Commissioner of Agriculture may enter upon or hire other persons to enter upon the land and cut down and destroy the Canada or nodding thistles. The ***Commissioner of Agriculture*** [~~persons so employed~~] may recover from the person who holds the land ***the reasonable costs of the eradication***[~~, compensation at the rate of fifteen dollars ($15.00) per day~~].

Section 2. KRS 249.195 is amended to read as follows:

All public utilities, the State Highway Department, the county judge/executive, railroads, drainage districts, school districts, road districts, ***game preserves,*** and other public and quasi-public corporations and every landowner in thistle eradication areas shall:

(1) Control and eradicate Canada and nodding thistles and prevent their regrowth and reinfestation on all lands, rights of way and easements owned, occupied or controlled by them;

(2) Employ methods of control and eradication and for the prevention of the regrowth and reinfestation of [~~such~~] thistles ***by April 15 of each year in those counties in the Central Time Zone and by April 25 of each year in those counties in the Eastern Time Zone*** as directed by the Commissioner of Agriculture or the county thistle control board; ***and***

(3) Comply with all orders, rules and regulations promulgated by the Commissioner of Agriculture pursuant to KRS 249.183 to 249.195 and 249.991.

Section 3. KRS 176.051 is amended to read as follows:

[~~(1)~~] The Department of Highways ***shall*** [~~may~~] keep all state rights-of-way free of the species of grass, Sorghum halepense, commonly known as Johnson grass, and the species of weed commonly known as giant foxtail, both of which are noxious weeds, and the thistles Cirsium arvense and Carduus nutans, commonly known as Canada thistles and nodding thistles, respectively, [~~and~~] multiflora rose***, wild cumcumber, and black nightshade***; and, upon written request, ***shall give priority to*** [~~from~~] any abutting property owner engaged in a program of eradication of Johnson grass, giant foxtail, Canada thistles, nodding thistles, [~~or~~] multiflora rose, ***kudzu, wild cumcumber, and black nightshade; and*** shall cooperate with ***the*** [~~such~~] abutting owner by eradicating ***the*** [~~such~~] Johnson grass, giant foxtail, Canada thistles, nodding thistles, [~~or~~] multiflora rose, ***kudzu, wild cumcumber, and black nightshade*** from abutting state rights-of-way. The department shall take steps to eradicate ***this*** [~~such~~] grass ***and these weeds***[~~, weed~~] or thistles by the use of chemicals or any other means found to be effective by the department.

(2) The Department of Highways shall inform property owners of the availability of ***the*** [~~said~~] eradication program. In carrying out this responsibility the department shall, no later than the first week in March of every year, advertise in each county, pursuant to the provisions of KRS Chapter 424 that the program is available. The department shall stipulate in ***the*** [~~such~~] advertisement the place and manner in which an interested property owner may make a written request for inclusion in the program.

Section 4. KRS 249.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 249.020 to 249.100 or hinders the carrying out of any of the provisions of those sections shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500).

(2) Any fine imposed for a violation of subsection (3) of KRS 249.070 may be recovered in the county in which the nursery is situated or the county to which the nursery stock is shipped.

(3) Any person who knowingly neglects or refuses to comply with the provisions of KRS 249.180 or 249.190 shall be fined ***not less than fifty dollars ($50.00) nor more than five hundred dollars ($500). Each day of violation after the notice provided in KRS 249.190 shall be a separate offense*** [~~five dollars ($5.00)~~].

Section 5. KRS 249.991 is amended to read as follows:

(1) Any person who interferes with or attempts to prevent the Commissioner of Agriculture from exercising any of his powers under KRS 249.183 to 249.195 shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months.

(2) Any person who violates any regulation prescribed by the Commissioner under KRS 249.183 to 249.195 shall be fined not ***less than fifty dollars ($50.00) nor*** more than five hundred dollars ($500) or imprisoned not more than six (6) months or both so fined and imprisoned. ***Each day of violation after the notice provided in KRS 249.190 shall be a separate offense.***

Section 6. Whereas, the methods of controlling and eradicating thistles are most effectively applied in the month of April, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Orders of the Day

HB 217, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 217**. Agreed.

Representative Lear moved that **HB 217**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See January 23, 1990 roll call on **HB 217** - Appendix.)

HB 217, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 217**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 19, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Amendment No. 2 to **HJR 19**. Agreed.

Representative Hancock moved that **HJR 19**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 23, 1990 roll call on **HJR 19** - Appendix.)

HJR 19, as amended, was passed.

Representative Hancock moved the adoption of the Committee Amendment No. 1 (Title) to **HJR 19**. Agreed; and the title was agreed to.

Representative Hancock moved that the vote by which **HJR 19**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 175 taken from the Orders of the Day and ordered read at length for the third time. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 175** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 23, 1990 roll call on **HB 175** - Appendix.)

HB 175 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 175** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 191 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 191** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See January 23, 1990 roll call on **HB 191** - Appendix.)

HB 191 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 191** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 88, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved the adoption of Floor Amendment No. 1 to **HB 88**. Agreed.

Representative Butler moved that **HB 88**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See January 23, 1990 roll call on **HB 88** - Appendix.)

HB 88, as amended, was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 88**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on the following Bills. Agreed.

Transportation: **HB 252, HB 276, HB 315, HB 328.**

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 371, by Representative Clarke: AN ACT relating to sales and use tax.

HB 372, by Representative Cyrus: AN ACT relating to labor.

HB 373, by Representative Cyrus: AN ACT relating to wages and hours.

HB 374, by Representatives Bronger, Crupper and Jackson: AN ACT relating to sales and use taxes.

HB 375, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 376, by Representatives Nett, Gray, Priddy, and Hatcher: AN ACT relating to consumer protection.

HB 377, by Representative Long: AN ACT making an appropriation from the Energy Assistance Trust Fund for use in the Low-Income Home Energy Assistance Program, and declaring an emergency.

HB 378, by Representatives Blevins and Moberly: AN ACT relating to environmental education.

HCR 50, by Representatives Jensen, Ford, Richards, Keith, Lefevers, Noland, Curtsinger, Strong and Siler: A CONCURRENT RESOLUTION urging Kentucky citizens to "stand up and be counted" in the 1990 United States Census.

HJR 51, by Representatives Curd and Morris: A JOINT RESOLUTION directing the Secretary of Transportation to name the Mershone Bridge on Kentucky Highway 274 in Trigg County the John Woodruff Bridge.

HR 52, by Representatives Morris and Bruce: A RESOLUTION urging the Finance and Administration Cabinet to promote fast, efficient, and safe elevator service in the Commonwealth's New Capitol Building.

HR 53, by Representatives Adkins, Cyrus, Preston and Blevins: A RESOLUTION honoring the late Fred M. Vinson to commemorate the one-hundredth anniversary of his birth.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 117**.

Agriculture and Small Business: **HCR 31, HCR 48**.

Appropriations and Revenue: **HB 338, HB 339**.

Elections and Constitutional Amendments: **HB 13**.

Education: **HB 321**.

Labor and Industry: **HB 162, HB 168, HB 231, HB 285, HB 288, HB 311, SB 53, SB 54, SB 56, SB 59, SB 60, SB 61, SB 62**.

Representative Adkins moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Adkins moved the adoption of the following **HR 53**:

HR 53, A RESOLUTION honoring the late Fred M. Vinson to commemorate the one-hundredth anniversary of his birth.

WHEREAS, The Honorable Fred M. Vinson was born in Louisa in Lawrence County, Kentucky on January 22, 1890; and

WHEREAS, The Honorable Fred M. Vinson rose from humble beginnings to become a United States Congressman from Kentucky; and

WHEREAS, The Honorable Fred M. Vinson because of his outstanding vision and abilities was named to serve as the Secretary of the Treasury of the United States and in many other important government positions; and

WHEREAS, The Honorable Fred M. Vinson served the people of this nation as Chief Justice of the Supreme Court of the United States from 1946 until his death in 1953;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the memory of Chief Justice Vinson, on the 100th anniversary of his birth.

Section 2. That the House of Representatives sends its congratulations to the family of Chief Justice Vinson in recognition of his many accomplishments.

Section 3. That copies of this resolution be delivered to the family of Chief Justice Vinson, including Mrs. Ruth Ann Blevins of Paintsville, Kentucky.

Section 4. That the House of Representatives of the Commonwealth of Kentucky does hereby adjourn this day, Tuesday, January 23, 1990, in honor of Chief Justice Vinson.

HR 53 was adopted by voice vote.

Representative Castleman requested **HB 334** be withdrawn. Agreed.

Representative Moberly moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Moberly moved that he be recorded as voting "yea" on **HB 217**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 1 to **HB 28**, by Representative Johnson:

Amend printed copy of **HB 28** on page 10, lines 5 through 26, to delete the same;

On page 11, lines 1 through 26, to delete the same; and

On page 12, lines 1 through 18, to delete the same; and

On page 12, line 19, to renumber "Section 12" to read as "Section 8"

The Clerk announced the following meetings:

Cities: 10:00 a.m., January 25, 1990 in Room 104.

Counties and Special Districts: 9:00 a.m., January 24, 1990.

The Clerk announced the cancellation of the meeting of the Committee on Labor and Industry on January 24, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 24, 1990.

On the roll call the vote was yeas 86—Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 5—Curtsinger, Gray, LeMaster, Lile, Preston.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 24, 1990

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Nazarene Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 23, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 105, SB 122, SB 126, SB 127, SB 128** and **HB 92.**

Introduction of Bills and Resolutions

HB 379, by Representative Stokes: AN ACT relating to fire protection.

HB 380, by Representatives Kerr, Callahan, K. Harper, Walker, Sheehan and Reinhardt: AN ACT relating to health departments.

HB 381, by Representative Cyrus: AN ACT relating to family and temporary medical leave.

HB 382, by Representative Geveden: AN ACT relating to the Tourism Cabinet.

HB 383, by Representatives Bronger, Morris, Priddy, Callahan, Donnermeyer, Ridley, Brown, Bruce, L. Clark, Butler, Burch, Yates and Blandford: AN ACT relating to the carrying of concealed deadly weapons.

HB 384, by Representative Farrow: AN ACT relating to statutory actions.

HB 385, by Representative Geveden: AN ACT relating to personal service contracts.

HB 386, by Representatives Siler, Allen, J. Harper, A. Jones, Blevins, Geveden, Stumbo, Walker, Gregory, Strong, Maggard, Jensen, Lefevers, White, Turner, B. Smith, Bruce, Morris, Zimmerman, Freibert, Mullinix, McElroy, Brown, Reinhardt, Callahan, Cyrus, Deskins, Noland, Layman, Todd, Mason, Overstreet, Ford, Altman, Worthington, Lyne, Napier, Jackson, Gedling, Crupper, Long, Pritchett, Adkins, Ridley, P. Richardson, Heleringer, Ark, Arnold, T. Jones, Donnermeyer: AN ACT relating to boats and boating.

HB 387, by Representatives Cyrus and Maggard: AN ACT relating to executive department employees.

HB 388, by Representatives P. Richardson and B. Richardson: AN ACT relating to the Kentucky FAIR Plan and Reinsurance Association.

HJR 54, by Representatives Noe, Richards, Moberly, Rapier, Lear, Barrows, Scorsone, T. Jones: A JOINT RESOLUTION directing the Council on Higher Education in conjunction with the university presidents to prepare and present to the Interim Joint Committee on Education a plan of action for their involvement in, and support of, the improvement of the public schools.

HR 55, by Representatives Scorsone, Mack, Lear, LeMaster, Curtsinger and Freibert: A RESOLUTION recognizing the Historic Pleasant Green Missionary Baptist Church Bicentennial Anniversary.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 369.**

Appropriations and Revenue: **HB 370, HB 371, HB 374, HB 375, HB 377.**

Banking and Insurance: **HB 376.**

Cities: **HB 365.**

Counties and Special Districts: **HB 366.**

Education: **HB 378.**

Judiciary: **HB 367, HB 368.**

Labor and Industry: **HB 372, HB 373.**

State Government: **HCR 50.**

Transportation: **HJR 51.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Election and Constitutional Amendments: **HB 16, HB 134.**

Banking and Insurance: **HB 53, HB 296, HB 342.**

Cities: **HB 10, HB 59.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 236**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 236, AN ACT relating to libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 173.340 is amended to read as follows:

(1) The management and control of a library shall be vested in a board of trustees. In cities and counties the board shall consist of five (5) members except that in cities of the second class, it shall consist of seven (7) members. In the event a contract for library service is made pursuant to subsection (4) of KRS 173.310, the board may consist of equal representation from the contracting parties with the total membership not to exceed twelve (12). In a library region there shall be five (5) members except if the number of counties exceeds five (5) there shall be one (1) trustee from each county in the region.

(2) Within thirty (30) days after the establishment of a library has been authorized by any of the methods authorized by KRS 173.310, a library board shall be appointed. In cities the trustees shall be appointed by the mayor and in counties they shall be appointed by the county judge/executive. There shall be established a board of trustees in each regional library district for purposes of coordinating library programs and effecting economies and efficiencies of the member county library systems. In each regional library district the trustees shall be appointed by the joint action of the judges/executive of the respective counties or as may be agreed upon by contract. In any region in which there are four (4) or less counties, provision shall be made in the contract for rotation of members and an equitable adjustment of terms. If a region consists of an even number of counties, the trustees appointed by the judges/executive of the respective counties shall appoint an additional trustee whose term of office shall be four (4) years and whose successor shall be appointed by the trustees in office at the time of expiration of such term. Trustees shall be appointed from the governmental unit at large with special reference to their fitness for such office. ***Upon initial establishment of the board,*** members of the board shall be appointed ***to terms*** as follows: two (2) members for two (2) years, one (1) member for three (3) years, and two (2) members for four (4) years respectively, and thereafter trustees shall be appointed to serve ***terms of*** four (4) years. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves[~~, effective July 1, 1974, exclusive of present terms begun prior to that date~~]. Vacancies shall be filled for the unexpired terms as soon as possible in the same manner as the original appointments. In the event that vacancies have existed for a period of at least six (6) months, the Governor of the Commonwealth of Kentucky, upon the recommendation of the state librarian, may make such necessary appointments. Absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term shall constitute automatic resignation from the board by the trustee.

(3) [~~A~~] Library ***trustees*** [~~trustee~~] shall not receive a salary or other compensation for ***their*** services***, but may be reimbursed for actual expenses necessarily incurred in the performance of their duties, upon approval by the board*** [~~as a trustee~~]. Before entering upon the duties of his office, a trustee shall take oath that he will faithfully discharge his duties. No board shall employ as a member of its library staff any member of the board or any person related closer than a second cousin to any member of the board. No person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, [~~fire~~] insurance or services for which library funds are expended.

(4) A library trustee may be removed only by vote of the legislative body of the respective governmental unit from which he was appointed.

Section 2. KRS 173.350 is amended to read as follows:

(1) The board of trustees shall constitute a corporate body with perpetual succession. Within ten (10) days after their appointment the appointive officer shall call a meeting of the library board to organize by the election of such officers as they deem necessary and meet on a regularly scheduled basis thereafter once each month. If the appointive officer does not call a meeting the trustees may do so on their own initiative.

(2) They shall adopt such bylaws[~~, rules~~] and ***policies*** [~~regulations~~] for their own guidance and for the government of the library as they deem expedient; have the supervision, care and custody of all property of the library including its quarters or buildings; employ a ***library director*** [~~librarian~~] and upon ***that person's*** [~~his~~] recommendation employ such other ***staff*** [~~assistants~~] as may be necessary, ***who shall be certified in accordance with KRS 171.240 to 171.300*** [~~all in accordance with the statutes relating to the certification of librarians and the rules and regulations adopted by the board pursuant thereto~~], [~~and~~] fix the compensation of ***the library director and staff*** [~~librarians or assistants employed and remove them for cause~~]; ***adopt personnel policies which shall include dismissal of employees;*** submit annually to the legislative body a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year; allot funds for the purchase of ***library materials*** [~~books, periodicals, maps~~] and supplies for the library; and do all other acts necessary for the orderly and efficient management and control of the library.

(3) They may accept such gifts of money or property for library purposes as they deem expedient; lease or purchase land for library buildings; lease, purchase or erect an appropriate building or buildings for library purposes and acquire such other property and equipment as may be needed therefor; and ***may*** enter into contracts for library service with other library boards [~~and~~] as provided for ***in KRS 65.210 to 65.300 and with other units of government as provided for*** in [~~subsection (4) of~~] KRS 173.310***(4)***.

Section 3. KRS 173.480 is amended to read as follows:

Upon the creation of a district, the fiscal court of each county in the district shall at once notify the Department of Libraries and Archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.470. The Department of Libraries and Archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The Department of Libraries and Archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall immediately, with the approval of the fiscal court, make ***the*** [~~his~~] selection from those recommended. Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members. The Department of Libraries and Archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, the Department of Libraries and Archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for ***the*** [~~his~~] county from this list. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.490.

Section 4. KRS 173.500 is amended to read as follows:

Each board shall be a body corporate under the name and style of "______________ Public Library District Board of Trustees." The members shall, as soon as possible after their appointment, [~~adopt a seal and~~] organize by electing a president, a secretary***,*** [~~and~~] a treasurer, ***and other officers as deemed necessary,*** each to serve for a term of two (2) years and until ***a*** [~~his~~] successor is elected and qualified. [~~The treasurer shall give bond to the commonwealth for the faithful performance of his duties, in such sum and form and with such sureties as the board shall approve.~~] The board shall meet on a regularly scheduled basis once each month. A majority of the board shall constitute a quorum.

Section 5. KRS 173.510 is amended to read as follows:

The members of the board shall not receive compensation for their services, but ***may*** [~~shall~~] be reimbursed for their actual expenses necessarily incurred in the performance of their duties, upon vouchers duly approved by the board, signed by the secretary and countersigned by the president. No board shall newly employ as a member of its library staff any member of the board or any person related closer than a second cousin to any member of the board. No person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, [~~fire~~] insurance, or services for which library funds are expended.

Section 6. KRS 173.520 is amended to read as follows:

(1) The board shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the district and do all things necessary to provide efficient library service. ***The board may also enter an agreement pursuant to KRS 65.210 to 65.300 for the provision of additional library service.*** No district shall establish a library unless the plans for the establishment, equipment and maintenance have been approved by the Department for Libraries and Archives. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the Department for Libraries and Archives for this purpose.

(2) The district, as a body corporate, by and through the board may:

(a) Sue and be sued, complain and defend, purchase, or lease grounds, purchase, lease, occupy or erect appropriate buildings for the use of the district libraries and their branches, sell and convey real and personal property for and on behalf of the district, receive gifts of real and personal property for the use and benefit of the district, the same when accepted to be held and controlled by the board according to the terms of the deed, gift, devise or bequest of such property;

(b) Borrow money on the credit of the board in anticipation of the revenue to be derived from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan. The principal shall not exceed fifty percent (50%) of the anticipated revenue for the fiscal year in which the money is borrowed;

(c) Establish bylaws it deems necessary and expedient to define the duties of officers[~~, assistants~~] or employees and make all necessary ***policies*** [~~rules and regulations~~] governing libraries***,*** [~~and~~] library service ***and personnel*** within the district.

(3) The board in exercise of its powers shall be guided by the regulations and requirements of the Department for Libraries and Archives.

(4) The powers set forth in this section shall not be construed to limit, restrict or modify any powers or authority granted by any other part of KRS 173.450 to 173.650 or any other law not in conflict with the provisions of this section.

Section 7. KRS 173.530 is amended to read as follows:

The board shall ***employ*** [~~appoint~~] a ***library director and upon that person's recommendation may employ other staff*** [~~district librarian and such assistant librarians~~] as it deems necessary. The ***library director and staff*** [~~district librarian~~] shall be certified in accordance with the provisions of KRS 171.240 to 171.300.

Section 8. KRS 173.540 is amended to read as follows:

The treasurer of the board shall:

(1) Have the custody of all money, securities and obligations belonging to that district, and shall disburse money only for the uses and purposes of the district and in the manner prescribed by the bylaws on itemized vouchers allowed by the board, signed by the secretary and countersigned by the president;

(2) Keep a full and accurate account of all receipts and payments in the manner directed by the bylaws, and such other accounts as the board prescribes;

(3) Render statements of accounts of the several books, funds and property ***of the library*** [~~in his custody~~] whenever required by the board;

(4) Have all accounts and records ***for the fiscal year*** fully made up [~~to the last day preceding the annual meeting,~~] and present the same to the board ***within ninety (90) days following the close of that fiscal year*** [~~at its annual meeting~~].

(5) Give bond to the Commonwealth for the faithful performance of those duties, in the sum and form and with the sureties approved by the board.

Section 9. KRS 173.580 is amended to read as follows:

(1) The board may, in its discretion, employ or retain a regularly licensed attorney to advise them on all matters pertaining to their duties and shall have the discretion to delegate such authority to said attorney not forbidden by law. [~~The attorney so employed or retained shall attend all meetings of the board, except executive sessions when the board does not desire his presence, whenever the board requests him to attend and shall advise the board on all legal matters on which he is requested to give advice.~~]

(2) The board may fix the salary or compensation of the attorney provided for in subsection (1) of this section, in its discretion.

Section 10. KRS 173.725 is amended to read as follows:

(1) Upon the creation of a district, the fiscal court of each county in the district shall at once notify the Department for Libraries and Archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.720. The Department for Libraries and Archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The Department for Libraries and Archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall, with the approval of the fiscal court, immediately make ***the*** [~~his~~] selection from those recommended. Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members. The Department for Libraries and Archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, the Department for Libraries and Archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for ***the*** [~~his~~] county from this list. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.730.

(2) In making recommendations and appointments under subsection (1) of this section and KRS 173.730, the Department for Libraries and Archives and the county judge/executive shall attempt to assure, to the extent permitted by the county's entitlement to board members, that the board includes members from different geographical areas, and from both cities and unincorporated areas, of the county.

Section 11. KRS 173.730 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended by the board. The board shall recommend two (2) persons committed to the provision of library services to the Department for Libraries and Archives, for each vacancy. The state librarian and commissioner shall recommend those names to the county judge/executive. The county judge/executive shall immediately, with the approval of the fiscal court, make ***the*** [~~his~~] selection from those recommended. Board members thus appointed shall serve a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves, effective July 1, 1974, exclusive of present terms begun prior to that date. The members shall hold office until their respective successors are appointed and qualified. Absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term shall constitute automatic resignation from the board by the trustee.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge/executive, with the approval of the fiscal court, by appointment on recommendation of the state librarian and commissioner of two (2) persons interested in the provision of library services and living in the county in which the vacancy occurred.

(3) A member of the board may be removed from office as provided by KRS 65.007.

Section 12. KRS 173.735 is amended to read as follows:

Each board shall be a body corporate under the name and style of "________________ Public Library District Board of Trustees." The members shall, as soon as possible after their appointment, [~~adopt a seal and~~] organize by electing a president, a secretary***,*** [~~and~~] a treasurer, ***and other officers as deemed necessary*** each to serve for a term of two (2) years and until ***a*** [~~his~~] successor is elected and qualified. [~~The treasurer shall give bond to the Commonwealth for the faithful performance of his duties, in such sum and form and with such sureties as the board shall approve.~~] The board shall meet on a regularly scheduled basis once each month. A majority of the board shall constitute a quorum.

Section 13. KRS 173.740 is amended to read as follows:

The members of the board shall not receive compensation for their services, but ***may*** [~~shall~~] be reimbursed for their actual expenses necessarily incurred in the performance of their duties, upon vouchers duly approved by the board, signed by the secretary and countersigned by the president. No board shall newly employ as a member of its library staff any member of the board or any person related closer than a second cousin to any member of the board. No person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, [~~fire~~] insurance, or services for which library funds are expended.

Section 14. KRS 173.745 is amended to read as follows:

(1) The board shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the district and do all things necessary to provide efficient library service. ***The board may also enter an agreement pursuant to KRS 65.210 to 65.300 for the provision of additional library services.*** No district shall establish a library unless the plans for the establishment, equipment and maintenance have been approved by the Department for Libraries and Archives. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the Department for Libraries and Archives for this purpose.

(2) The district, as a body corporate, by and through the board may:

(a) Sue and be sued, complain and defend, purchase, or lease grounds, purchase, lease, occupy or erect appropriate buildings for the use of the district libraries and their branches, sell and convey real and personal property for and on behalf of the district, receive gifts of real and personal property for the use and benefit of the district, the same when accepted to be held and controlled by the board according to the terms of the deed, gift, devise or bequest of such property;

(b) Borrow money on the credit of the board in anticipation of the revenue to be derived from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan. The principal to be repaid annually shall not exceed fifty percent (50%) of the anticipated revenue for the fiscal year in which the money is borrowed.

(c) Establish bylaws it deems necessary and expedient to define the duties of officers[~~; assistants~~] or employees and make all necessary ***policies*** [~~rules and regulations~~] governing libraries***,*** [~~and~~] library service ***and personnel*** within the district.

(3) The board in exercise of its powers shall be guided by the regulations and requirements of the Department for Libraries and Archives.

(4) The powers set forth in this section shall not be construed to limit, restrict or modify any powers or authority granted by KRS 173.710 to 173.800 or any other law not in conflict with the provisions of this section.

Section 15. KRS 173.750 is amended to read as follows:

The board shall ***employ a library director and upon that person's recommendation may employ other staff*** [~~appoint a district librarian and such assistant librarians~~] as it deems necessary. The ***library director and staff*** [~~district librarian~~] shall be certified in accordance with the provisions of KRS 171.240 to 171.300.

Section 16. KRS 173.755 is amended to read as follows:

The treasurer of the board shall:

(1) Have the custody of all money, securities and obligations belonging to that district, and shall disburse money only for the uses and purposes of the district and in the manner prescribed by the bylaws on itemized vouchers allowed by the board, signed by the secretary and countersigned by the president;

(2) Keep a full and accurate account of all receipts and payments in the manner directed by the bylaws, and such other accounts as the board prescribes;

(3) Render statements of accounts of the several books, funds and property ***of the library*** [~~in his custody~~] whenever required by the board;

(4) Have all accounts and records ***for the fiscal year*** fully made up [~~to the last day preceding the annual meeting,~~] and present the same to the board ***within ninety (90) days following the close of that fiscal year*** [~~at its annual meeting~~].

(5) Give bond to the Commonwealth for the faithful performance of those duties, in the sum and form and with the sureties approved by the board.

Section 17. KRS 173.775 is amended to read as follows:

(1) The board may, in its discretion, employ or retain a regularly licensed attorney to advise them on all matters pertaining to their duties and shall have the discretion to delegate such authority to said attorney not forbidden by law. [~~The attorney so employed or retained shall attend all meetings of the board, except executive sessions when the board does not desire his presence, whenever the board requests him to attend and shall advise the board on all legal matters on which he is requested to give advice.~~]

(2) The board may fix the salary or compensation of the attorney provided for in subsection (1) of this section, in its discretion.

The Committee Substitute to **HB 236** is as follows:

HB 236, AN ACT relating to libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 173.340 is amended to read as follows:

(1) The management and control of a library shall be vested in a board of trustees. In cities and counties the board shall consist of five (5) members except that in cities of the second class, it shall consist of seven (7) members. In the event a contract for library service is made pursuant to subsection (4) of KRS 173.310, the board may consist of equal representation from the contracting parties with the total membership not to exceed twelve (12). In a library region there shall be five (5) members except if the number of counties exceeds five (5) there shall be one (1) trustee from each county in the region.

(2) Within thirty (30) days after the establishment of a library has been authorized by any of the methods authorized by KRS 173.310, a library board shall be appointed. In cities the trustees shall be appointed by the mayor and in counties they shall be appointed by the county judge/executive. There shall be established a board of trustees in each regional library district for purposes of coordinating library programs and effecting economies and efficiencies of the member county library systems. In each regional library district the trustees shall be appointed by the joint action of the judges/executive of the respective counties or as may be agreed upon by contract. In any region in which there are four (4) or less counties, provision shall be made in the contract for rotation of members and an equitable adjustment of terms. If a region consists of an even number of counties, the trustees appointed by the judges/executive of the respective counties shall appoint an additional trustee whose term of office shall be four (4) years and whose successor shall be appointed by the trustees in office at the time of expiration of such term. Trustees shall be appointed from the governmental unit at large with special reference to their fitness for such office. ***Upon initial establishment of the board,*** members of the board shall be appointed ***to terms*** as follows: two (2) members for two (2) years, one (1) member for three (3) years, and two (2) members for four (4) years respectively, and thereafter trustees shall be appointed to serve ***terms of*** four (4) years. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves[~~, effective July 1, 1974, exclusive of present terms begun prior to that date~~]. Vacancies shall be filled for the unexpired terms as soon as possible in the same manner as the original appointments. In the event that vacancies have existed for a period of at least six (6) months, the Governor of the Commonwealth of Kentucky, upon the recommendation of the state librarian, may make such necessary appointments. ***After*** absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term***, the trustee shall be considered to have automatically resigned from the board*** [~~shall constitute automatic resignation from the board by the trustee~~]. ***An advisory board may be appointed and serve as specified in by-laws of the public library board of trustees.***

(3) [~~A~~] Library ***trustees*** [~~trustee~~] shall not receive a salary or other compensation for ***their*** services***, but may be reimbursed for actual expenses necessarily incurred in the performance of their duties, upon approval by the board*** [~~as a trustee~~]. Before entering upon the duties of his office, a trustee shall take oath that he will faithfully discharge his duties. No board shall employ as a member of its library staff any member of the board or any person related closer than a second cousin to any member of the board. No person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, [~~fire~~] insurance or services for which library funds are expended.

(4) A library trustee may be removed only by vote of the legislative body of the respective governmental unit from which he was appointed.

Section 2. KRS 173.350 is amended to read as follows:

(1) The board of trustees shall constitute a corporate body with perpetual succession. Within ten (10) days after their appointment the appointive officer shall call a meeting of the library board to organize by the election of such officers as they deem necessary and meet on a regularly scheduled basis thereafter once each month. If the appointive officer does not call a meeting the trustees may do so on their own initiative.

(2) They shall adopt such bylaws[~~, rules~~] and ***policies*** [~~regulations~~] for their own guidance and for the government of the library as they deem expedient; have the supervision, care and custody of all property of the library including its quarters or buildings; employ a ***library director*** [~~librarian~~] and upon ***that person's*** [~~his~~] recommendation employ such other ***staff*** [~~assistants~~] as may be necessary, ***who shall be certified in accordance with KRS 171.240 to 171.300*** [~~all in accordance with the statutes relating to the certification of librarians and the rules and regulations adopted by the board pursuant thereto~~], [~~and~~] fix the compensation of ***the library director and staff*** [~~librarians or assistants employed and remove them for cause~~]; ***adopt personnel policies which shall include dismissal of employees;*** submit annually to the legislative body a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year; allot funds for the purchase of ***library materials*** [~~books, periodicals, maps~~] and supplies for the library; and do all other acts necessary for the orderly and efficient management and control of the library.

(3) They may accept such gifts of money or property for library purposes as they deem expedient; lease or purchase land for library buildings; lease, purchase or erect an appropriate building or buildings for library purposes and acquire such other property and equipment as may be needed therefor; and ***may*** enter into contracts for library service with other library boards [~~and~~] as provided for ***in KRS 65.210 to 65.300 and with other units of government as provided for*** in [~~subsection (4) of~~] KRS 173.310***(4)***.

Section 3. KRS 173.480 is amended to read as follows:

Upon the creation of a district, the fiscal court of each county in the district shall at once notify the Department of Libraries and Archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.470. The Department of Libraries and Archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The Department of Libraries and Archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall immediately, with the approval of the fiscal court, make ***the*** [~~his~~] selection from those recommended. Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members. The Department of Libraries and Archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, the Department of Libraries and Archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for ***the*** [~~his~~] county from this list. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.490.

Section 4. KRS 173.500 is amended to read as follows:

Each board shall be a body corporate under the name and style of "______________ Public Library District Board of Trustees." The members shall, as soon as possible after their appointment, [~~adopt a seal and~~] organize by electing a president, a secretary***,*** [~~and~~] a treasurer, ***and other officers as deemed necessary,*** each to serve for a term of two (2) years and until ***a*** [~~his~~] successor is elected and qualified. [~~The treasurer shall give bond to the commonwealth for the faithful performance of his duties, in such sum and form and with such sureties as the board shall approve.~~] The board shall meet on a regularly scheduled basis once each month. A majority of the board shall constitute a quorum.

Section 5. KRS 173.510 is amended to read as follows:

The members of the board shall not receive compensation for their services, but ***may*** [~~shall~~] be reimbursed for their actual expenses necessarily incurred in the performance of their duties, upon vouchers duly approved by the board, signed by the secretary and countersigned by the president. No board shall newly employ as a member of its library staff any member of the board or any person related closer than a second cousin to any member of the board. No person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, [~~fire~~] insurance, or services for which library funds are expended.

Section 6. KRS 173.520 is amended to read as follows:

(1) The board shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the district and do all things necessary to provide efficient library service. ***The board may also enter an agreement pursuant to KRS 65.210 to 65.300 for the provision of additional library service.*** No district shall establish a library unless the plans for the establishment, equipment and

maintenance have been approved by the Department for Libraries and Archives. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the Department for Libraries and Archives for this purpose.

(2) The district, as a body corporate, by and through the board may:

(a) Sue and be sued, complain and defend, purchase, or lease grounds, purchase, lease, occupy or erect appropriate buildings for the use of the district libraries and their branches, sell and convey real and personal property for and on behalf of the district, receive gifts of real and personal property for the use and benefit of the district, the same when accepted to be held and controlled by the board according to the terms of the deed, gift, devise or bequest of such property;

(b) Borrow money on the credit of the board in anticipation of the revenue to be derived from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan. The principal shall not exceed fifty percent (50%) of the anticipated revenue for the fiscal year in which the money is borrowed;

(c) Establish bylaws it deems necessary and expedient to define the duties of officers[~~, assistants~~] or employees and make all necessary ***policies*** [~~rules and regulations~~] governing libraries, [~~and~~] library service ***and personnel*** within the district.

(3) The board in exercise of its powers shall be guided by the regulations and requirements of the Department for Libraries and Archives.

(4) The powers set forth in this section shall not be construed to limit, restrict or modify any powers or authority granted by any other part of KRS 173.450 to 173.650 or any other law not in conflict with the provisions of this section.

Section 7. KRS 173.530 is amended to read as follows:

The board shall ***employ*** [~~appoint~~] a ***library director and upon that person's recommendation may employ other staff*** [~~district librarian and such assistant librarians~~] as it deems necessary. The ***library director and staff*** [~~district librarian~~] shall be certified in accordance with the provisions of KRS 171.240 to 171.300.

Section 8. KRS 173.540 is amended to read as follows:

The treasurer of the board shall:

(1) Have the custody of all money, securities and obligations belonging to that district, and shall disburse money only for the uses and purposes of the district and in the manner prescribed by the bylaws on itemized vouchers allowed by the board, signed by the secretary and countersigned by the president;

(2) Keep a full and accurate account of all receipts and payments in the manner directed by the bylaws, and such other accounts as the board prescribes;

(3) Render statements of accounts of the several books, funds and property ***of the library*** [~~in his custody~~] whenever required by the board;

(4) Have all accounts and records ***for the fiscal year*** fully made up [~~to the last day preceding the annual meeting,~~] and present the same to the board ***within ninety (90) days following the close of that fiscal year*** [~~at its annual meeting~~].

(5) Give bond to the Commonwealth for the faithful performance of those duties, in the sum and form and with the sureties approved by the board.

Section 9. KRS 173.580 is amended to read as follows:

(1) The board may, in its discretion, employ or retain a regularly licensed attorney to advise them on all matters pertaining to their duties and shall have the discretion to delegate such authority to said attorney not forbidden by law. [~~The attorney so employed or retained shall attend all meetings of the board, except executive sessions when the board does not desire his presence, whenever the board requests him to attend and shall advise the board on all legal matters on which he is requested to give advice.~~]

(2) The board may fix the salary or compensation of the attorney provided for in subsection (1) of this section, in its discretion.

Section 10. KRS 173.725 is amended to read as follows:

(1) Upon the creation of a district, the fiscal court of each county in the district shall at once notify

the Department for Libraries and Archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.720. The Department for Libraries and Archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The Department for Libraries and Archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall, with the approval of the fiscal court, immediately make ***the*** [~~his~~] selection from those recommended. Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members. The Department for Libraries and Archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, the Department for Libraries and Archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for ***the*** [~~his~~] county from this list. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.730.

(2) In making recommendations and appointments under subsection (1) of this section and KRS 173.730, the Department for Libraries and Archives and the county judge/executive shall attempt to assure, to the extent permitted by the county's entitlement to board members, that the board includes members from different geographical areas, and from both cities and unincorporated areas, of the county.

Section 11. KRS 173.730 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended by the board. The board shall recommend two (2) persons committed to the provision of library services to the Department for Libraries and Archives, for each vacancy. The state librarian and commissioner shall recommend those names to the county judge/executive. The county judge/executive shall immediately, with the approval of the fiscal court, make ***the*** [~~his~~] selection from those recommended. Board members thus appointed shall serve a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves[~~, effective July 1, 1974, exclusive of present terms begun prior to that date~~]. The members shall hold office until their respective successors are appointed and qualified. ***After*** absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term***, the trustee shall be considered to have automatically resigned from the board*** [~~shall constitute automatic resignation from the board by the trustee~~]. ***An advisory board may be appointed and serve as specified in by-laws of the board of trustees.***

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge/executive, with the approval of the fiscal court, by appointment on recommendation of the state librarian and commissioner of two (2) persons interested in the provision of library services and living in the county in which the vacancy occurred.

(3) A member of the board may be removed from office as provided by KRS 65.007.

Section 12. KRS 173.735 is amended to read as follows:

Each board shall be a body corporate under the name and style of "______________ Public Library District Board of Trustees." The members shall, as soon as possible after their appointment, [~~adopt a seal and~~] organize by electing a president, a secretary***,*** [~~and~~] a treasurer, ***and other officers as deemed necessary*** each to serve for a term of two (2) years and until ***a*** [~~his~~] successor is elected and qualified. [~~The treasurer shall give bond to the Commonwealth for the faithful performance of his duties, in such sum and form and with such sureties as the board shall approve.~~] The board shall meet on a regularly scheduled basis once each month. A majority of the board shall constitute a quorum.

Section 13. KRS 173.740 is amended to read as follows:

The members of the board shall not receive compensation for their services, but ***may*** [~~shall~~] be reimbursed for their actual expenses necessarily incurred in the performance of their duties, upon vouchers duly approved by the board, signed by the secretary and countersigned by the president. No board shall newly employ as a member of its library staff any member of the board or any person related closer than a second cousin to any member of the board. No person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, [~~fire~~] insurance, or services for which library funds are expended.

Section 14. KRS 173.745 is amended to read as follows:

(1) The board shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the district and do all things necessary to provide efficient library service. ***The board may also enter an agreement pursuant to KRS 65.210 to 65.300 for the provision of additional library services.*** No district shall establish a library unless the plans for the establishment, equipment and maintenance have been approved by the Department for Libraries and Archives. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the Department for Libraries and Archives for this purpose.

(2) The district, as a body corporate, by and through the board may:

(a) Sue and be sued, complain and defend, purchase, or lease grounds, purchase, lease, occupy or erect appropriate buildings for the use of the district libraries and their branches, sell and convey real and personal property for and on behalf of the district, receive gifts of real and personal property for the use and benefit of the district, the same when accepted to be held and controlled by the board according to the terms of the deed, gift, devise or bequest of such property;

(b) Borrow money on the credit of the board in anticipation of the revenue to be derived from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan. The principal to be repaid annually shall not exceed fifty percent (50%) of the anticipated revenue for the fiscal year in which the money is borrowed.

(c) Establish bylaws it deems necessary and expedient to define the duties of officers[~~, assistants~~] or employees and make all necessary ***policies*** [~~rules and regulations~~] governing libraries***,*** [~~and~~] library service ***and personnel*** within the district.

(3) The board in exercise of its powers shall be guided by the regulations and requirements of the Department for Libraries and Archives.

(4) The powers set forth in this section shall not be construed to limit, restrict or modify any powers or authority granted by KRS 173.710 to 173.800 or any other law not in conflict with the provisions of this section.

Section 15. KRS 173.750 is amended to read as follows:

The board shall ***employ a library director and upon that person's recommendation may employ other staff*** [~~appoint a district librarian and such assistant librarians~~] as it deems necessary. The ***library director and staff*** [~~district librarian~~] shall be certified in accordance with the provisions of KRS 171.240 to 171.300.

Section 16. KRS 173.755 is amended to read as follows:

The treasurer of the board shall:

(1) Have the custody of all money, securities and obligations belonging to that district, and shall disburse money only for the uses and purposes of the district and in the manner prescribed by the bylaws on itemized vouchers allowed by the board, signed by the secretary and countersigned by the president;

(2) Keep a full and accurate account of all receipts and payments in the manner directed by the bylaws, and such other accounts as the board prescribes;

(3) Render statements of accounts of the several books, funds and property ***of the library*** [~~in his custody~~] whenever required by the board;

(4) Have all accounts and records ***for the fiscal year*** fully made up [~~to the last day preceding the annual meeting,~~] and present the same to the board ***within ninety (90) days following the close of that fiscal year*** [~~at its annual meeting~~].

(5) Give bond to the Commonwealth for the faithful performance of those duties, in the sum and form and with the sureties approved by the board.

Section 17. KRS 173.775 is amended to read as follows:

(1) The board may, in its discretion, employ or retain a regularly licensed attorney to advise them on all matters pertaining to their duties and shall have the discretion to delegate such authority to said attorney

not forbidden by law. [~~The attorney so employed or retained shall attend all meetings of the board, except executive sessions when the board does not desire his presence, whenever the board requests him to attend and shall advise the board on all legal matters on which he is requested to give advice.~~]

(2) The board may fix the salary or compensation of the attorney provided for in subsection (1) of this section, in its discretion.

Section 18. KRS 173.490 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended by the board. The board shall recommend two (2) persons committed to the provision of library services to the Department for Libraries and Archives, for each vacancy. The names shall be forwarded to the Department for Libraries and Archives and the state librarian and commissioner shall recommend those names to the county judge/executive. The county judge/executive shall immediately, with the approval of the fiscal court, make his selection from those recommended. Board members thus appointed shall serve a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves[~~, effective July 1, 1974, exclusive of present terms begun prior to that date~~]. The members shall hold office until their respective successors are appointed and qualified. ***After*** absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term***, the trustee shall be considered to have automatically resigned from the board*** [~~shall constitute automatic resignation from the board by the trustee~~]. ***An advisory board may be appointed and serve as specified in the by-laws of the board of trustees.***

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge/executive, with the approval of the fiscal court, by appointment on recommendation of the state librarian and commissioner of two (2) names of persons committed to the provision of library services and living in the county in which the vacancy occurred.

(3) A member of the board may be removed from office as provided by KRS 65.007.

The Committee on Economic Development and Tourism reported **HB 128** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 128, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.052 is amended to read as follows:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the Secretary of the [~~commerce~~] Cabinet ***for Economic Development***. The Secretary of ***the Cabinet for Economic Development*** [~~commerce~~] shall adopt administrative regulations for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement; [~~and~~]

(c) Degree and conditions of project payback***; and***

(d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts and any other form of child care assistance deemed applicable by the secretary.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond Committee, the Secretary of ***the Cabinet for Economic Development*** [~~commerce~~] shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown and overall project description. This shall be submitted by the secretary to the committee. Subsequently, the Secretary of ***the Cabinet for Economic Development*** [~~commerce~~] shall execute a written agreement with the public or private organizations involved expressing

in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in an appropriations act. The Secretary of ***the Cabinet for Economic Development*** [~~commerce~~] shall consult with the Secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet, and the State Property and Buildings Commission, under the provisions of KRS 56.440 and 56.720.

(5) Following the approval by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission, the project shall be presented by the [~~commerce~~] Cabinet ***for Economic Development*** with supporting documentation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee for review and approval, pursuant to KRS 45.810.

(6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(7) The [~~commerce~~] Cabinet ***for Economic Development*** shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the bonds issued, the amounts paid back, and the balance still owing.

Calendar

HB 48, **HB 68**, **HB 75**, **HB 84**, **HB 91**, **HB 101**, **HB 179**, **HB 232**, **HB 265**, **HCR 6**, **HJR 8** and **HCR 22** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

HB 62, **HB 107** and **HB 167** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 255 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 255** be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See January 24, 1990 roll call on **HB 255** - Appendix.)

HB 255 was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 255** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 57 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved that **HB 57** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See January 24, 1990 roll call on **HB 57** - Appendix.)

HB 57 was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 57** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 180 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 180** be passed.

On the roll call the vote was: Yeas 92, Nays 6. (See January 24, 1990 roll call on **HB 180** - Appendix.)

HB 180 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 180** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 294, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 294**. Agreed.

Representative Lear moved that **HB 294**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See January 24, 1990 roll call on **HB 294** - Appendix.)

HB 294, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 294**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HCR 6, HJR 8** and **HCR 22** have been posted for passage in Orders of the Day, January 25, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, January 25, 1990: **HB 167**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 232, HB 265**.

The Committee on Rules reported **HB 48, HB 68, HB 84** and **HB 179** have been posted for passage in Orders of the Day, January 26, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, January 26, 1990: **HB 107**.

Introduction of Bills and Resolutions

HB 389, by Representatives Arnold and Crupper: AN ACT relating to animals.

HB 390, by Representative Siler: AN ACT relating to underground coal mine safety.

HB 391, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 392, by Representative Clarke: AN ACT relating to the expenditure of funds for highway purposes.

HB 393, by Representatives Crupper, Gedling and Layman: AN ACT relating to coyotes.

HB 394, by Representatives Ford, Johnson, Arnold, Scorsone, Maggard, Napier, Jensen, Altman, Zimmerman, Lefevers, Noland, Strong, Brown, Mullinix, Freibert, Siler, Todd, B. Smith, Turner, Walker, Casebier, Lile, K. Harper, Reinhardt, Cyrus, Blevins, Allen, Curd, Bronger and Preston: AN ACT relating to real property.

HB 395, by Representative Little: AN ACT relating to underground coal mining.

HB 396, by Representative Morris: AN ACT relating to economic development through creation of tourism and recreation zones.

HB 397, by Representative Hancock: AN ACT relating to crime stoppers organizations.

HB 398, by Representative Hancock: AN ACT relating to the taxation of motor fuels.

HB 399, by Representative R. Smith: AN ACT relating to motor carriers.

HB 400, by Representative Crupper: AN ACT relating to commercial feed.

HB 401, by Representative Crupper: AN ACT relating to child-day care.

HB 402, by Representative Cyrus: AN ACT relating to the railroad commission.

HR 56, by Representatives Strong and Stumbo: A RESOLUTION adjourning the House in honor of the Leadership Kentucky Program.

HJR 57, by Representatives Noe, Mason and Lefevers: A JOINT RESOLUTION directing the Secretary of the Transportation Cabinet to designate the portion of U. S. Highway 119 from Pineville to Whitesburg as the "Kingdom Come Parkway."

HR 58, by Representatives Callahan and Donnermeyer: A RESOLUTION honoring former City of Dayton Mayor, Gilbert H. Lynn.

HR 59, by Representative Sheehan: A RESOLUTION honoring Joy Ryder.

HJR 60, by Representatives Morris and Curd: A JOINT RESOLUTION directing the Secretary of Transportation to name the bridge on Kentucky Highway 164 across Casey Creek the Skaggs-Ledford-Wyatt Bridge.

Motions, Petitions and Communications (continued)

Representative Bentley moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Bentley moved the adoption of the following Legislative Citation No. 14. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the Cordia Junior League Basketball Team.

This body salutes the exemplary performance of every team player for the Cordia Junior League Basketball Team.

Working as a team has brought significant honor and superior community recognition to the youthful players by being designated county champions.

This prestigious body commends your dedication to winning and good sportsman-like conduct.

Representative Bentley individually honored the following members of the Cordia Junior League Basketball Team:

Casey Barnett, Adam Brewer, Jeremy Brewer, Tad Brewer, Kyle Caudill, Bryan Combs, Eric Combs, Jason Duff, Jimmy Keith, Joe Melton, David Noble, Tim Ritchie, Bobby Sizemore, and John Stacey.

Representative L. Clark moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative L. Clark moved the adoption of the following Legislative Citation No. 16. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the memory of Anthony J. "Tony" Demling who departed this world in January, 1990 leaving behind a legacy of volunteerism and sportsmanship;

WHEREAS, Tony Demling exemplified the fine qualities of a devoted worker at Shawnee Golf Course; and,

WHEREAS, Tony Demling shared in friendship and fellowship with all who knew him through his love of the game of golf; and

WHEREAS, Tony Demling will be greatly missed by many who were fortunate to call him friend. This esteemed body joins Representative Larry Clark in bidding farewell to Tony Demling and extends to his family deepest condolences.

Representative Sheehan moved the adoption of the following **HR 59**:

HR 59, A RESOLUTION honoring Joy Ryder.

WHEREAS, the love of a parent to a child is recognized as the greatest love of all; and

WHEREAS, Joy Ryder has been extremely exceptional in being a foster parent for over 100 children for approximately 23 years while having 6 children of her own; and

WHEREAS, she is currently giving Teresa, a 4-year old girl who, as a result of physical abuse at the age of 5 months, is blind, hearing impaired, does not speak, and has brain damage, the care that contributes to Teresa's happiness and well-being and increases the quality of her life; and

WHEREAS, no sacrifice has been too great;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House recognizes Joy Ryder as a Saint on Earth and commends her for her tireless efforts in behalf of Kentucky's children.

Section 2. That the Clerk of the House transmits a copy of this resolution to Joy Ryder of Carroll County.

HR 59 was adopted by voice vote.

Representative Strong moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Strong moved the adoption of the following **HR 56**:

HR 56, A RESOLUTION adjourning the House in honor of the Leadership Kentucky Program.

WHEREAS, the Leadership Kentucky Program was created in 1984 by such distinguished Kentuckians as former Lieutenant Governor Wilson W. Wyatt, the late Barry Bingham, Sr., and Chief Justice Robert Stephens; and

WHEREAS, the Leadership Kentucky Program is designed to encourage people who are mid-way through their careers and who have demonstrated leadership qualities to become involved in issues facing the Commonwealth; and

WHEREAS, the Leadership Kentucky Program provides its participants with an intense seven month study of the educational system, crime and the judicial system, the legislative process, and other subjects of concern to the Commonwealth; and

WHEREAS, beginning with the first Leadership Class in 1985, an effort has been made to include a diverse group of men and women from all parts of the state; and

WHEREAS, several members of the Kentucky General Assembly are graduates of the Leadership Kentucky Program, including Attorney General Fred Cowan, Sen. John D. Rogers, Sen. Tim Shaughnessy, Sen. David L. Williams, Rep. Lawson Walker and the late Sen. John Weaver;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does recognize and honor the dedication of the organizers and participants of the Leadership Kentucky Program.

Section 2. That when the House does adjourn this day, Wednesday, January 24, 1990, it does so in honor of the Leadership Kentucky Program and its two hundred and fifty graduates.

Section 3. That the Clerk of the House is directed to send a copy of this resolution to the Leadership Kentucky Program, Attention: Angie Woodward, in care of the Kentucky Chamber of Commerce Office; Mr. Tom V. Ellis, 1808 Boone Trail, Louisville, Kentucky 40245; and Mr. John L.G. Richards, Chairman, Leadership Kentucky Program, in care of Liberty National Bank, P.O. Box 32500, Louisville, Kentucky 40232.

HR 56 was adopted by voice vote.

Representative McElroy moved that **HB 266** be withdrawn. Agreed.

Representative T. Jones moved that **HB 230** be withdrawn. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representative Worthington; **HB 5**, Representatives Casebier, Noland; **HB 13**, Representative Worthington; **HB 14**, Representative Worthington; **HB 20**, Representative Donnermeyer; **HB 22**, Representative Worthington; **HB 38**, Representative Priddy; **HB 43**, Representatives Gray and Hatcher; **HB 45**, Representative Lefevers; **HB 47**, Representative Worthington; **HB 51**, Representative Lile; **HB 62**, Representatives Lefevers, Moberly, Noland, Worthington; **HB 65**, Representative Stokes; **HB 71**, Representative Worthington; **HB 94**, Representative Lefevers; **HB 115**, Representative Lefevers; **HB 124**, Representative Worthington; **HB 154**, Representative Lefevers; **HB 172**, Representative Lefevers; **HB 203**, Representative Lefevers; **HB 205**, Representative Keith; **HB 214**, Representative K. Harper; **HB 222**, Representative Worthington; **HB 223**, Representative Lefevers; **HB 239**, Representative Lefevers; **HB 256**, Representative Lefevers, P. Richardson; **HB 259**, Representative Worthington; **HB 272**, Representative Lile; **HB 294**, Representative Ackerson; **HB 319**, Representative Lefevers; **HB 327**, Representatives Lefevers, Noland; **HB 330**, Representatives Lefevers, P. Richardson, Todd; **HB 352**, Representatives Lefevers, Noland; **HB 357**, Representative Hourigan; **HB 370**, Representatives Lefevers, Noland; **HCR 1**, Representative Worthington.

The following members filed requests to have their names withdrawn as co-sponsors of Bills: **HB 242**, Representative Layman; **HB 330**, Representative Maggard.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 75**, by Representative Clarke:

Amend printed copy of HCS for **HB 75** on page 2, line 7, after the "(1)", insert: "***Take action to***".

Floor Title Amendment to **HCR 6**, by Representative J. Harper:

Amend printed copy of **HCR 6** on page 1, line TITLE, by amending the title to read as follows:

"A CONCURRENT RESOLUTION to create a task force to study a proposal to establish a geographic information system (GIS) and a global positioning system (GPS) oriented geodetic reference system for the Commonwealth of Kentucky."

Floor Amendment No. 1 to **HCR 6**, by Representative J. Harper:

Amend printed copy of **HCR 6** on page 1, in the title after the words "Commonwealth of Kentucky." by deleting all the text thereafter and substituting the following:

"WHEREAS, there is a need for an improved land survey and mapping system which can aid land transfers, furnish a basis for more equitable taxation, and provide necessary information for resource management and environmental planning; and

WHEREAS, the Navstar Global Positioning system is being developed by the United States Department of Defense to utilize satellites to precisely locate objects on the surface of the earth; and

WHEREAS, to use the GPS effectively, the National Geodetic Survey stations throughout the Commonwealth must be reviewed to determine suitability with the Global Positioning System; and

WHEREAS, a highly accurate geographic information system (GIS) can result by the use of the global positioning system (GPS) technology for the benefit of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the GIS/GPS Task Force is created to study a geographic information system and a global positioning system oriented geodetic reference system for the Commonwealth. The membership of the task force shall include:

(1) Two (2) members of the General Assembly chosen by the Legislative Research Commission and

representative of the two (2) political parties polling the greatest number of votes in the state at general elections. The Legislative Research Commission shall appoint one of these members to serve as the chairperson of the task force.

(2) Five (5) members appointed by the Governor and representing the following executive branch agencies:

(a) A representative of the Transportation Cabinet office which regulates airports;

(b) A representative of the Transportation Cabinet office which regulates highways;

(c) A representative of the Natural Resources and Environmental Protection Cabinet which regulates surface coal mining;

(d) A representative of a state university who is knowledgeable about the use of satellites to conduct land surveys and geographic information systems; and

(e) A representative of the Kentucky Geological Survey.

(3) In addition, the Legislative Research Commission shall appoint to the task force a representative from each of the following:

(a) The largest organization in Kentucky representing land surveyors;

(b) The largest organization in Kentucky representing professional engineers; and

(c) The largest organization in Kentucky representing professional planners.

Section 2. That the purpose of the task force shall be to study and make recommendations to the 1992 General Assembly of the Commonwealth of Kentucky on a proposal to establish a geographic information system and a geodetic reference system for Kentucky which can utilize the global positioning system.

Section 3. The recommendations of the task force shall be submitted to the Legislative Research Commission by September 1, 1991.

Section 4. The Kentucky Geological Survey shall designate staff to provide technical assistance to the task force. The Legislative Research Commission shall provide administrative support services to the task force.

Section 5. Legislative Research Commission staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission."

Floor Amendment No. 5 to **HB 113**, by Representative Johnson:

Amend printed copy of **HB 113** on page 13, after line 15, by adding a new section to read as follows:

"SECTION 13. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of assisting a suicide when the person:

(a) Aids, abets, assists, advises, or encourages another to commit suicide; or

(b) Provides, delivers to, or procures for another any drug or instrument with the knowledge that the other may attempt to commit, or commit, suicide with said drug or instrument.

(2) Assisting a suicide is a Class D felony."

Floor Title Amendment to **HB 113**, by Representative Johnson:

Amend printed copy of **HB 113** by amending the title to read as follows:

"AN ACT relating to the termination of human life".

The Clerk announced the following meetings:

The Committee on Education will meet Thursday, January 25, 1990 at 10:00 a.m.

The Committee on Transportation will meet Thursday, January 25, 1990 at 9:00 a.m.

The Committee on Judiciary will meet Thursday, January 25, 1990 at 9:00 a.m.

The Committee on Banking and Insurance will meet Thursday, January 25, 1990 at 12:30.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 25, 1990.

On the roll call the vote was yeas 92—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 6—Bronger, Deskins, Heleringer, LeMaster, Lile, Preston.

The motion to adjourn was adopted.

THURSDAY, JANUARY 25, 1990

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Jack Roberts, Maryville Baptist Church, Hillview.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 24, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 141**.

Representative Stumbo moved that the rules be suspended to grant floor privileges to a delegation from the Council of State Governments and inviting an honored guest to address the House of Representatives. Agreed.

The Honorable Senator Paul White, Chairman, Council of State Governments, addressed the House of Representatives.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 92** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:10 p.m.)

HB 92 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 403, by Representative Kerr: AN ACT relating to children committed to the Cabinet for Human Resources.

HB 404, by Representatives Nelson, Gedling, Castleman, Jackson, Arnold, L. Clark, Ridley, Altman, Lewis, Ford, Brown, A. Jones, Napier, P. Richardson, Stumbo, Mason, Cline, Cyrus and Allen: AN ACT relating to motor vehicles.

HB 405, by Representative Kerr: AN ACT relating to limited access highways.

HB 406, by Representative A. Jones: AN ACT relating to the statute of frauds.

HB 407, by Representative Geveden: AN ACT relating to compensation of crime victims.

HB 408, by Representative A. Jones: AN ACT relating to notaries public.

HB 409, by Representative A. Jones: AN ACT relating to benefits for active and retired public employees.

HB 410, by Representative B. Smith: AN ACT relating to insurance.

HB 411, by Representatives B. Smith and P. Clark: AN ACT relating to the use of aftermarket crash parts.

HB 412, by Representatives Noland, White and Lefevers: AN ACT relating to improving public safety programs in incorporated cities.

HR 61, by Representatives Callahan, Donnermeyer, Sheehan, Reinhardt, K. Harper, Kerr, Walker and McBee: A RESOLUTION honoring Elmer Shaefer.

HR 62, by Representative Hancock: A RESOLUTION adjourning the House of Representatives in memory and in honor of the "Father of the State Merit System", Walter Robert Gattis, Jr., on this date, January 25, 1990, the first anniversary of his death.

HR 63, by Representaeleringer: A RESOLUTION honoring the Trinity High School Football Team.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 381, HB 385, HB 389, HB 393, HB 400.**

Appropriations and Revenue: **HB 391, HB 402.**

Banking and Insurance: **HB 384, HB 388.**

Business Organizations and Professions: **SB 105.**

Counties and Special Districts: **HB 379.**

Economic Development and Tourism: **HB 382, HB 386, HB 396.**

Education: **HJR 54.**

Energy: **HB 398, SB 122, SB 126, SB 127, SB 128.**

Health and Welfare: **HB 380, HB 401.**

Judiciary: **HB 383, HB 394, HB 397.**

Labor and Industry: **HB 395.**

Natural Resources and Environmental Protection: **HB 390.**

State Government: **HB 387.**

Transportation: **HB 392, HB 399, HJR 57, HJR 60.**

Report of Committees

The Committee on Rules reported **HB 112** has been posted for passage in Orders of the Day, January 25, 1990.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 174.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Health and Welfare: **HB 343.**

Report of Committees

The Committee on Education reported **HB 136**, with Committee Substitute attached thereto, **HB 138**, with Committee Substitute attached thereto, and **HB 60** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 136, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.010 is amended to read as follows:

There shall be a Council on Higher Education in Kentucky, to be composed of the Superintendent of Public Instruction[~~,~~] and seventeen (17) lay members appointed by the Governor. ***The lay members shall include***[~~,~~] one (1) from each congressional district ***and ten (10)***[~~, eight (8)~~] from the state at large ***including*** [~~which shall include~~] a student member. ***The student member***[~~, who~~] shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the Commonwealth as determined by the residency guidelines of the council, and shall be ***selected*** [~~elected~~] annually in the following manner: not later than July 1 of each year the president of the student body of each four-year state public institution of higher education shall submit to the Governor one (1) nominee***, and***[~~;~~] from this list of nominees, the Governor shall appoint a student member[~~, one (1) from a list of two (2) nominated by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives~~]. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. ***When*** [~~Whenever~~] a lay member's term expires after ***the effective date of this Act*** [~~July 15, 1982~~], the member appointed by the Governor to fill the vacancy shall be appointed for a ***six (6)*** [~~four (4)~~] year term in the same manner as the initial appointment. Any person, other than the Superintendent of Public Instruction, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky association of colleges, secondary and elementary schools, shall be invited to meet with the council in an advisory capacity.

Section 2. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires additional representation on any such "single state agency" the Council on Higher Education shall establish such advisory groups as may be necessary to satisfy such federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and [~~such~~] other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the Advisory Conference of Presidents. Nothing in this chapter shall prevent or prohibit the Governor, the legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of ***the*** [~~such~~] projects to the Finance and Administration Cabinet [~~and/~~]or State Property and Buildings Commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractul relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Assist each state institution of higher education in developing a comprehensive orientation program for newly appointed governing board trustees and regents. The orientation program shall include, but not be limited to, the presentation of information concerning the respective institution's mission, budget, plans, policies, strengths, and weaknesses. The orientation program shall also include meetings of the newly appointed trustees and regents for each institution with its faculty, student administrators, and other board members.

Section 3. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen (16) competent citizens of Kentucky appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The ***initial*** terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. [~~Four (4) of the sixteen (16) appointed members shall be appointed each year.~~] Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The Governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments ***except that the appointments shall be for terms of six (6) years.***

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 4. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The ***initial*** terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. ***When a term expires after the effective date of this Act, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term. The*** [~~Such~~] appointments shall be made by the Governor within thirty (30) days after the expiration of the term of each member. If the Governor ***fails*** [~~should fail~~] to make ***the*** [~~any such~~] appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make ***the*** [~~such~~] appointment within sixty (60) days after the expiration of ***the*** [~~such~~] term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of ***the*** [~~such~~] board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does

maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

Section 5. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of seventeen (17) competent citizens of Kentucky appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the Governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in ***the*** [~~such~~] manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) ***After the effective date of this Act*** at the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the Governor for terms of ***six (6)*** [~~four (4)~~] years each, and in making such appointments the Governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements, the Governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Governor's Higher Education Selection Committee which shall consist of seven (7) members representing each of the Supreme Court districts.

(2) In selecting the members of the committee the Governor shall solicit recommendations from each of the following:

(a) Advisory Conference of Presidents;

(b) Council on Higher Education Student Advisory Council;

(c) Associations representing faculty from universities and community colleges;

(d) Associations representing university and community college alumni;

(e) Higher education advocacy groups;

(f) The State Board of Education; and

(g) Associations representing business and civil interests.

(3) Members of the committee shall serve six (6) year terms, except the initial appointments shall be as follows:

(a) One (1) member shall serve a three (3) year term;

(b) Two (2) members shall serve a four (4) year term;

(c) Two (2) members shall serve a five (5) year term; and

(d) Two (2) members shall serve a six (6) year term.

The terms of the original appointees shall expire on June 30 in the year designated, and the terms of each member appointed thereafter shall begin on July 1. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) Beginning January 1, 1991 the committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.130, 164.320, and 164.820 and to the Council on Higher Education, except the student member, pursuant to KRS 164.010. The committee shall not make recommendations for alumni appointments provided for by statute. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The Governor shall make the appointment within thirty (30) days following receipt of the nominations.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as it deems necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 7. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University [~~and~~] Murray State University, ***Kentucky State University, and Northern Kentucky University*** may not be removed except for cause.

The Committee Substitute to **HB 136** is as follows:

HB 136, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.010 is amended to read as follows:

There shall be a Council on Higher Education in Kentucky, ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The council shall*** [~~to~~] be composed of the Superintendent of Public Instruction[~~,~~] and seventeen (17) lay members appointed by the Governor. ***The lay members shall include***[~~,~~] one (1) from each congressional district ***and ten (10)***[~~, eight (8)~~] from the state at large ***including*** [~~which shall include~~] a student member. ***The student member***[~~, who~~] shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the

Commonwealth as determined by the residency guidelines of the council, and shall be ***selected***[~~elected~~] annually in the following manner: not later than July 1 of each year the president of the student body of each four-year state public institution of higher education shall submit to the Governor one (1) nominee, ***and***[~~;~~] from this list of nominees, the Governor shall appoint a student member[~~, one (1) from a list of two (2) nominated by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives~~]. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. ***When*** [~~Whenever~~] a lay member's term expires after ***January 1, 1992*** [~~July 15, 1982~~], the member appointed by the Governor to fill the vacancy shall be appointed for a ***six (6)*** [~~four (4)~~] year term in the same manner as the initial appointment. Any person, other than the Superintendent of Public Instruction, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky association of colleges, secondary and elementary schools, shall be invited to meet with the council in an advisory capacity.

Section 2. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires additional representation on any such "single state agency" the Council on Higher Education shall establish such advisory groups as may be necessary to satisfy such federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and [~~such~~] other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the Advisory Conference of Presidents. Nothing in this chapter shall prevent or prohibit the Governor, the legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of ***the*** [~~such~~] projects to the Finance and Administration Cabinet [~~and/~~]or State Property and Buildings Commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Develop in cooperation with each state institution of higher education a comprehensive orientation program for newly appointed governing board trustees and regents. The orientation program shall include, but not be limited to, the presentation of information concerning the respective institution's mission, budget, plans, policies, strengths, and weaknesses. The orientation program shall also include meetings of the newly appointed trustees and regents for each institution with its faculty, students, administrators, and other board members.

Section 3. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist*** [~~consisting~~] of sixteen (16) competent citizens of Kentucky appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The ***initial*** terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. ***When a term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be for a six (6) year term.*** [~~Four (4) of the sixteen (16) appointed members shall be appointed each year.~~] Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The Governor shall so make the appointments as to divide the representation on the board as equally as possible between

the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments ***except that the appointments shall be for terms of six (6) years.***

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 4. KRS 164.320 is amended to read as follows:

(1) [~~The board of regents for~~] Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each ***be governed by a board of regents appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. Each board shall*** consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The ***initial*** terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. ***When a term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term. The*** [~~Such~~] appointments shall be made by the Governor within thirty (30) days after the expiration of the term of each member. If the Governor ***fails*** [~~should fail~~] to make ***the*** [~~any such~~] appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make ***the*** [~~such~~] appointment within sixty (60) days after the expiration of ***the*** [~~such~~] term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of ***the*** [~~such~~] board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

Section 5. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of seventeen (17) competent citizens of Kentucky appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the Governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in ***the*** [~~such~~] manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) ***After January 1, 1992*** at the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the Governor for terms of ***six (6)*** [~~four (4)~~] years each, and in making such appointments the Governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements, the Governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Governor's Higher Education Selection Committee which shall consist of seven (7) members representing each of the Supreme Court districts appointed by the Governor with the consent of the House of Representatives and the Senate. In the event the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) In selecting the members of the committee the Governor shall solicit recommendations from each of the following:

(a) Advisory Conference of Presidents;

(b) Council on Higher Education Student Advisory Council;

(c) Associations representing faculty from universities and community colleges;

(d) Associations representing university and community college alumni;

(e) Higher education advocacy groups;

(f) The State Board of Education; and

(g) Associations representing business and civil interests.

(3) Members of the committee shall serve six (6) year terms, except the initial appointments shall be as follows:

(a) One (1) member shall serve a three (3) year term;

(b) Two (2) members shall serve a four (4) year term;

(c) Two (2) members shall serve a five (5) year term; and

(d) Two (2) members shall serve a six (6) year term.

The terms of the original appointees shall expire on June 30 in the year designated, and the terms of each member appointed thereafter shall begin on July 1. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) Beginning January 1, 1991 the committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.130, 164.320, and 164.820 and to the Council on Higher Education, except the student member, pursuant to KRS 164.010. The committee shall not make recommendations for alumni appointments made pursuant to KRS 164.820. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The Governor shall make the appointment within thirty (30) days following receipt of the nominations.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as it deems necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 7. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University [~~and~~] Murray State University***, Kentucky State University, and Northern Kentucky University*** may not be removed except for cause.

HB 138, AN ACT relating to economic development and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the University of Kentucky Community College System a business and industry technical assistance center (BITAC) program.

(2) There shall be a business and industry technical assistance center (BITAC) located at each community college.

(3) The purpose of the center shall be job development and job creation.

(4) Each center shall serve the business community in its geographic area through training programs, workshops, and consulting and counseling services designed to enhance the economic development environment and climate of its area.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Each center shall include, but not be limited to, the following sub programs and services:

(a) An entrepreneurial training program focused on training unemployed, dislocated, or disadvantaged workers in entrepreneurial skills;

(b) An urban or rural women and minority proprietorship program focused on assisting women and minorities in each community served to begin or continue female and minority owned or operated business enterprises;

(c) A computer career training program to assist unemployed and dislocated workers through technical training in computers and micro computers; and

(d) A mining technology program, in those community colleges serving Kentucky's coal fields, focused on training in mining technology skills needed by the coal mining industry in Kentucky.

(2) Each center shall also provide consultation, research, and informational services designed to assist local economic and industrial development initiatives.

(3) Each center shall coordinate its services with existing economic development programs and agencies including the local and Kentucky chambers of commerce.

(4) Each center shall seek financial support for its programs by using the resources of various, existing training programs funded through the Education Cabinet, the Cabinet for Human Resources, the Cabinet for Economic Development, the Appalachian Regional Commission, where applicable, and other appropriate agencies.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The University of Kentucky Community College System shall submit a biennial report no later than September 1 of each odd numbered year on the BITAC program to the Legislative Research Commission, the Governor, and the Council on Higher Education. The report shall include a description of the programs at each community college, an evaluation of the performance of each program, a summary of expenditures, a detailed description of the participants, and an analysis of jobs developed and created by the centers. The report shall include recommendations for changes in program content and levels of funding.

Section 4. To carry out the purposes of this Act in reference to the business and industry technical assistance center program, there is hereby appropriated to the University of Kentucky Community College System out of the general fund in the State Treasury the sum of four hundred thirty thousand dollars ($430,000) in fiscal year 1991 and eight hundred sixty thousand dollars ($860,000) in fiscal year 1992.

The Committee Substitute to **HB 138** is as follows:

HB 138, AN ACT relating to economic development and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the University of Kentucky Community College System and the regional universities named in KRS 164.290 a business and industry technical assistance center (BITAC) program.

(2) There shall be a business and industry technical assistance center (BITAC) located at each community college and each regional university.

(3) The purpose of each center shall be job development and job creation.

(4) Each center shall serve the business community in its geographic area through training programs, workshops, and consulting and counseling services designed to enhance the economic development environment and climate of its area.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Each center shall include, but not be limited to, the following sub programs and services:

(a) An entrepreneurial training program focused on training unemployed, dislocated, or disadvantaged workers in entrepreneurial skills;

(b) An urban or rural women and minority proprietorship program focused on assisting women and minorities in each community served to begin or continue female and minority owned or operated business enterprises;

(c) A computer career training program to assist unemployed and dislocated workers through technical training in computers and micro computers; and

(d) A mining technology program, in those centers serving Kentucky's coal fields, focused on training in mining technology skills needed by the coal mining industry in Kentucky.

(2) Each center shall also provide consultation, research, and informational services designed to assist local economic and industrial development initiatives.

(3) Each center shall coordinate its services with existing economic development programs and agencies including the local and Kentucky chambers of commerce.

(4) Each center shall seek financial support for its programs by using the resources of various, existing training programs funded through the Education Cabinet, the Cabinet for Human Resources, the Cabinet for Economic Development, the Appalachian Regional Commission, where applicable, and other appropriate agencies.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The University of Kentucky Community College System and each regional university shall submit a biennial report no later than September 1 of each odd numbered year on the BITAC program to the Legislative Research Commission, the Governor, and the Council on Higher Education. The report shall include a description of the programs at each center, an evaluation of the performance of each program, a summary of expenditures, a detailed description of the participants, and an analysis of jobs developed and created by the centers. The report shall include recommendations for changes in program content and levels of funding.

Section 4. To carry out the purposes of this Act in reference to the business and industry technical assistance center program, there is hereby appropriated out of the general fund in the State Treasury the following sums:

(1) University of Kentucky Community College System

1990-91	$430,000
1991-92	$860,000

(2) Eastern Kentucky University

1990-91	$ 61,000
1991-92	$ 61,000

(3) Kentucky State University

1990-91	$ 61,000
1991-92	$ 61,000

(4) Morehead State University

1990-91	$ 61,000
1991-92	$ 61,000

(5) Murray State University

1990-91	$ 61,000
1991-92	$ 61,000

(6) Northern Kentucky University

1990-91	$ 61,000
1991-92	$ 61,000

(7) Western Kentucky University

1990-91	$ 61,000
1991-92	$ 61,000

HB 60, AN ACT relating to the Council on Higher Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.010 is amended to read as follows:

There shall be a Council on Higher Education in Kentucky, to be composed of the Superintendent of Public Instruction, and seventeen (17) lay members appointed by the Governor, one (1) from each Congressional district, eight (8) from the state at large which shall include a student member. ***The student member*** [~~, who~~] shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the Commonwealth as determined by the residency guidelines of the council, and shall be ***selected*** [~~elected~~] annually in the following manner: not later than ***August 1, 1990 and not later than June 1*** [~~July 1~~] of each year ***thereafter,*** the [~~president of the~~] student body ***presidents*** of ***the*** [~~each~~] four-year state public ***institutions*** [~~institution~~] of higher education shall ***elect by majority vote of all the presidents three (3) nominees to*** submit to the Governor. [~~one (1) nominee;~~] From this list of nominees, the Governor shall appoint a student member ***not later than September 1, 1990 and not later than July 1 each year thereafter*** [~~, one (1) from a list of two (2) nominated by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives~~]. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. ***When*** [~~Whenever~~] a lay member's term expires after July 15, 1982, the member appointed by the Governor to fill the vacancy shall be appointed for a four (4) year term in the same manner as the initial appointment. Any person, other than the Superintendent of Public Instruction, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky association of colleges, secondary and elementary schools, shall be invited to meet with the council in an advisory capacity.

The Committee on Judiciary reported **HB 295** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 295, AN ACT relating to state owned vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.045 is amended to read as follows:

(1) A passenger motor vehicle or vehicles may be purchased by the Finance and Administration Cabinet for the use of the Governor and the Lieutenant Governor.

(2) Motor vehicles, including passenger motor vehicles, may be purchased by the Finance and Administration Cabinet as are deemed necessary by the secretary of the Finance and Administration Cabinet for the discharge of the authorized duties and functions of the various agencies of the state. ***The*** [~~Said~~] vehicles shall be used for official purposes only, and for no other purposes. The assignment of passenger motor vehicles to specific individuals shall be discouraged, but may be made upon approval by the secretary of the Finance and Administration Cabinet of a written request to make ***the*** [~~such~~] assignment by the head of the agency involved.

(3) All motor vehicles purchased pursuant to this section shall be issued official license plates and shall bear on one (1) door on each side the great seal of the Commonwealth, and the words "For official use only."[~~; provided, however, that~~] ***It shall not be necessary that*** the vehicles purchased pursuant to subsections (1)***,*** [~~and~~] (4)***, and (5)*** of this section [~~need not~~] bear the [~~said~~] seal and the [~~said~~] words.

(4) The Revenue and Justice Cabinets, and the Department of Law and the Crime Commission may, upon approval by the secretary of the Finance and Administration Cabinet of a written request by the head of the agency involved, [~~be authorized to~~] register a vehicle or vehicles under KRS 186.020 and be issued regular license plates. ***The*** [~~Such~~] vehicles shall be used for investigatory purposes only, and for no other purposes.

(5) ***The Administrative Office of the Courts may register a vehicle or vehicles used by justices and judges of the Supreme Court and Court of Appeals under KRS 186.020 and be issued regular license plates.***

(6) The secretary of the Finance and Administration Cabinet may adopt [~~such~~] regulations [~~as may be~~] necessary to govern the use of those state owned vehicles acquired pursuant to the ***provisions*** [~~provision~~] of this section.

(7)[~~(6)~~] Any person violating subsections (2) and (4) of this section shall, on conviction thereof, be subject to the penalties prescribed in KRS 44.990.

Section 2. KRS 186.065 is amended to read as follows:

(1) Every state owned motor vehicle, except as provided in subsection (2), shall have an official license plate. Except as provided in subsections (2)***,*** [~~and~~] (3), ***and (4)*** on one (1) door on each side of every state owned vehicle shall be the great seal of the Commonwealth and the words "For Official Use Only."

(2) The Cabinets of Revenue, Transportation, Justice and the Attorney General may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used for investigatory purposes. ***The Administrative Office of the Courts may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used by justices and judges of the Supreme Court and Court of Appeals.***

(3) The Governor and the Lieutenant Governor may each use one (1) state owned motor vehicle ***on*** which ***it shall not be necessary to*** [~~need not~~] have the state seal or the words "For Official Use Only."

(4) The justices and judges of the Supreme Court and Court of Appeals may each use state owned motor vehicles on which it shall not be necessary to have the state seal or the words "For Official Use Only."

The Committee on Transportation reported **HB 252**, with Committee Amendment attached thereto, **HB 276, HB 315**, with Committee Amendments attached thereto, and **HB 328**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 252, AN ACT relating to motor vehicle taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:

134.825 Costs of programming and administering AVIS for ad valorem collections to be paid by Finance and Administration Cabinet.

The Committee Amendment No. 1 to **HB 252** is as follows:

Amend printed copy of **HB 252** on page 1, by deleting lines 1 through 4 in their entirety, and inserting the following language in lieu thereof:

"Section 1. KRS 134.825 is amended to read as follows:

The ***Revenue*** [~~finance and administration~~] Cabinet shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of KRS 134.805, 134.810 and 186A.145 and, further, shall reimburse each state agency involved for all ongoing operational costs, including the calculation, preparation, and mailing of notices of ad valorem property tax due on motor vehicles, incurred by each such agency in administering the provisions of KRS 134.805, 134.810 and 186A.145."

HB 276, AN ACT relating to motor vehicle operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) In all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. [~~Provided, however,~~] The cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, ***and the person*** [~~who~~] has had no previous conviction of ***the*** [~~said~~] offense, ***shall not revoke the person's operator's license, but shall restrict the*** [~~that said person's operator's license shall not be revoked, restricts said person's operator's~~] license according to such terms and conditions

as the secretary in his discretion may require, ***if the*** [~~provided said~~] person has enrolled in such ***alcohol or substance abuse*** [~~driver's~~] education ***or treatment*** program as the cabinet shall require. ***If the*** [~~In the event said~~] person fails to satisfactorily complete ***the alcohol or substance abuse*** [~~said driver's~~] education ***or treatment*** program or violates the restrictions on his operator's license, the cabinet shall [~~forthwith~~] revoke ***the*** [~~said~~] operator's license for a period of six (6) months.

(6) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the ***alcohol or substance abuse*** [~~driver's~~] education ***or treatment*** program established by this section, or***,*** [~~(~~]at the option of the defendant***,***[~~)~~] a licensed comprehensive care center ***approved by the Cabinet for Human Resources*** [~~education program~~], and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a). The Cabinet ***for Human Resources*** shall permit driver's education programs approved by the Cabinet ***for Human Resources*** to offer a nine (9) hour driver's education program which may be completed in one (1) day and which shall satisfy the provisions of this section.

(7) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the Transportation Cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(8) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(9) Any person or legal entity that seeks to offer, conduct or operate ***an alcohol or substance abuse*** [~~a driver's~~] education ***or treatment*** program as provided in this section shall submit sufficient documentation to the cabinet in writing that ***the*** [~~such~~] program is needed in the geographical area that is proposed to be served. The Cabinet ***for Human Resources*** shall promulgate administrative regulations which specify what constitutes need for ***the*** [~~such~~] programs in a given geographical area. The Cabinet ***for Human Resources*** shall determine whether ***the*** [~~such~~] need is shown to exist and shall establish by administrative regulation an appeals procedure. The provisions of this subsection shall not apply to any ***alcohol or substance abuse*** [~~driver's~~] education ***or treatment*** program operating with the approval of the ***Transportation*** Cabinet prior to July 15, 1986.

Section 2. KRS 189A.040 is amended to read as follows:

(1) In order to reduce the period of license suspension from six (6) months to thirty (30) days as provided in subsection (1)(a) of KRS 189A.070***,*** the defendant may elect to attend an ***approved*** alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender***:***

(a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may, upon written recommendation to the court by the administrator of the program, be released prior to the expiration of the ninety (90) day period.

(2) In addition to any other penalty prescribed by law for violation of subsection (2)(b) of KRS 189A.010 the court shall sentence the person to an ***approved*** alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may, upon written recommendation to the court by the administrator of the program, be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by law for a violation of subsection (2)(c) of KRS 189A.010 the court shall sentence the person to an ***approved*** alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender.

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems. The program may be an inpatient or residential type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds or any combination thereof shall be deducted from the amount which the defendant must pay.

(5) The Cabinet for Human Resources shall approve and regulate alcohol and substance abuse education and treatment programs. The Cabinet for Human Resources shall by regulation establish the standards for approvable programs.

Section 3. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010 shall have his license to operate a motor vehicle or motorcycle revoked as follows:

(a) For the first offense, six (6) months, unless the person enrolls in the ***alcohol and substance abuse education or treatment*** [~~driver improvement~~] program ***approved*** [~~specified~~] by the [~~Transportation~~] Cabinet ***for Human Resources*** pursuant to KRS 186.560 or, [~~(~~]at the option of the defendant,[~~)~~] a licensed comprehensive care center education program, in which case the suspension shall be for thirty (30) days. If the person fails to successfully complete the ***alcohol and substance abuse education or treatment*** [~~driver improvement~~] program or, [~~(~~]at the option of the defendant,[~~)~~] a licensed comprehensive care center education program, or alcohol or substance abuse education or treatment program specified in subsection (1) of KRS 189A.040, [~~then~~] the court shall order the license suspended for six (6) months;

(b) For the second offense, twelve (12) months;

(c) For a third or subsequent offense, twenty-four (24) months.

(2) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010 shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) of this section, whichever penalty will result in the longer period of revocation.

(3) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. No court shall waive or stay this procedure.

(4) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

Section 4. The General Assembly confirms Executive Order 89-566 relating to the consolidation of alcohol and substance abuse education and treatment programs within the Cabinet for Human Resources.

HB 315, AN ACT relating to school buses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.153 is amended to read as follows:

(1) All school buses for which bids are made or bid contracts awarded shall meet the standards and

specifications of the State Board for Elementary and Secondary Education. The term "school bus," as used in this section, shall mean any motor vehicle which meets the standards and specifications for school buses as provided by law or by the standards or specifications of the State Board for Elementary and Secondary Education authorized by law and used solely in transporting school children and school employees to and from school under the supervision and control and at the direction of school authorities, and shall further include school bus accessory equipment and supplies and replacement equipment considered to be reasonably adaptable for purchase from price contract agreements.

(2) All school buses manufactured prior to 1983 shall be equipped with exterior fender mounted front view and side view mirrors so as to meet the 1984 standards and specifications of the State Board for Elementary and Secondary Education.

(3) All buses authorized by the State Board of Elementary and Secondary Education to transport school children and school employees shall be equipped with an emergency radio transg device.

The Committee Amendment No. 1 to **HB 315** is as follows:

Amend printed copy of **HB 315** on page 2, line 3, by deleting the word "***an***" and inserting the word "***a***" in lieu thereof; and

On page 2, line 4, by deleting the word "***emergency***".

The Committee Amendment No. 2 to **HB 315** is as follows:

Amend printed copy of **HB 315** on page 2, after line 4, by inserting the following language: "***(4) A school board may apply for an exemption from the provision of installing a radio transmitting device from the state board of education. This exemption shall be granted if it can be determined that the school will be operated solely within city limits.***"

HB 328, AN ACT relating to the Mississippi River Parkway Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.500 is amended to read as follows:

(1) The Mississippi River Parkway Commission of Kentucky is hereby established to serve as the local coordinating agency for the development of the Great River Road along the Mississippi River from Canada to the Gulf of Mexico. The commission ***shall*** [~~will henceforth~~] be attached to the ***Office of the Secretary of the*** Transportation Cabinet for administrative purposes.

(2) The commission shall consist of ***the following eleven (11) members: Four (4) citizen members, appointed by the Governor, and consisting of one (1) member from each of the four (4) counties that border the Mississippi River, who shall serve a term of four (4) years and may serve until a successor is appointed. Four (4) members shall be the respective county judge/executives of Ballard, Carlisle, Fulton and Hickman Counties in Kentucky. Other members shall be the secretary of the Tourism Cabinet or his designee; the secretary of the Economic Development Cabinet, or his designee; and the secretary of the Transportation Cabinet, or his designee. The commission shall annually elect a chairman and shall meet quarterly or upon call of the chairman with ten (10) days' written notice. Six (6) members present shall constitute a quorum for the official conduct of business. The commission may enter into contracts with the Purchase Area Development District to provide administrative services*** [~~seven (7) members. Four (4) shall be appointed by the Governor for a term of four (4) years and may serve until a successor is appointed and qualified. The fifth member shall be the secretary of the Tourism Cabinet, who shall serve in an ex officio capacity with full voting rights. The sixth member shall be the secretary of the Commerce Cabinet, who shall serve in an ex officio capacity with full voting rights. The seventh member shall be the secretary of the Transportation Cabinet, who shall serve as chairman with full voting rights. The commission shall meet on call of the chairman who shall notify all members in writing in advance. Four (4) members present shall constitute a quorum for the official conduct of business~~].

(3) Members shall receive no compensation but shall be reimbursed according to state regulations for actual and necessary expenses incurred in conducting commission business.

(4) The commission shall assure that the proper direction is taken in developing a corridor of scenic, historical and archaeological significance through the Kentucky counties of Ballard, Carlisle, Hickman and Fulton.

The Committee Amendment No. 1 to **HB 328** is as follows:

Amend printed copy of **HB 328** on page 1, line 8, by inserting the word "***Tourism***" before the word "Transportation" and by placing brackets around and striking through the word "Transportation".

Calendar

HB 128 and **HB 236** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hancock moved the adoption of the following **HR 62**:

HR 62, A RESOLUTION adjourning the House of Representatives in memory and in honor of the "Father of the State Merit System," Walter Robert Gattis, Jr., on this date, January 25, 1990, the first anniversary of his death.

WHEREAS, one year ago today, the life of our friend and mentor, Walter Robert Gattis, Jr., was unexpectedly extinguished; and

WHEREAS, Walter Robert Gattis, Jr., receiver of the silver star, bronze star, and three purple hearts during his military service, was a gifted scholar and intellect, an accomplished personnel administrator and former head of the Kentucky Department of Personnel; and

WHEREAS, in 1988, Walter Robert Gattis, Jr., recognized for his outstanding contribution toward the improvement of public personnel management, was awarded a lifetime membership in the International Personnel Management Association, a 55,000 member organization of public personnel professionals dedicated to the preservation of merit principles in personnel management; and

WHEREAS, Walter Robert Gattis, Jr.'s door was always open to his peers making him a truly extraordinary person whose special gifts and talents endeared him to all; and

WHEREAS, we have been privileged to have known Walter Gattis, Jr., and it is only fitting that the General Assembly remembers him on this the first anniversary of his death;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby remember our departed friend and colleague on this the first anniversary of his death.

Section 2. That a copy of this resolution be transmitted to the Kentucky chapter of the International Personnel Management Association.

Section 3. That a copy of this resolution be transmitted to the family of Walter Robert Gattis, Jr.

HR 62 was adopted by voice vote.

Orders of the Day

HB 112, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Substitute to **HB 112**. Agreed.

Representative Long moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 112**. Agreed.

Representative Long moved that **HB 112**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 25, 1990 roll call on **HB 112** - Appendix.)

HB 112, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 112**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 22 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HCR 22** be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See January 25, 1990 roll call on **HCR 22** - Appendix.)

HCR 22 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HCR 22** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 76, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of Committee Amendment No. 1 to **HB 76**. Agreed.

Representative L. Clark moved that **HB 76**, as amended, be passed.

On the roll call the vote was: Yeas 75, Nays 20. (See January 25, 1990 roll call on **HB 76** - Appendix.)

HB 76, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 76**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 167 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 167** be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See January 25, 1990 roll call on **HB 167** - Appendix.)

HB 167 was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 167** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 6, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved the adoption of Floor Amendment No. 1 to **HCR 6**. Agreed.

Representative J. Harper moved that **HCR 6**, as amended, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See January 25, 1990 roll call on **HCR 6** - Appendix.)

HCR 6, as amended, was passed.

Representative J. Harper moved the adoption of the Floor Title Amendment to **HCR 6**. Agreed; and the title was agreed to.

Representative J. Harper moved that the vote by which **HCR 6**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 8 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved that **HJR 8** be passed.

HJR 8 was passed by voice vote.

Representative J. Harper moved that a call of the roll be taken to show co-sponsors of **HJR 8**. Agreed.

The following members requested that their names be added as co-sponsors to **HJR 8**: Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman.

Motion, Petition and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 413, by Representative P. Richardson: AN ACT relating to mortgages.

HB 414, by Representative Ackerson: AN ACT relating to motor vehicle operator's licenses.

HB 415, by Representatives Mack and Barrows: AN ACT relating to preschool education and making an appropriation therefor.

HB 416, by Representative Stumbo: AN ACT relating to mining.

HB 417, by Representatives Stumbo, Deskins, Adkins, Cyrus, Bentley, Cline, Preston, Blevins, Mason, Little, Strong, Maggard, White and Jackson: AN ACT relating to the economic growth and development of the Appalachian region of Kentucky and declaring an emergency.

HB 418, by Representatives Morris and Bruce: AN ACT relating to deceased persons.

HB 419, by Representative Blevins: AN ACT relating to water supply planning.

HB 420, by Representative Little: AN ACT relating to mining.

HB 421, by Representative Blevins: AN ACT relating to education.

HB 422, by Representative Hatcher: AN ACT relating to motor vehicle insurance.

HB 423, by Representatives Little and Hancock: AN ACT relating to highways.

HB 424, by Representative Moberly: AN ACT relating to nonpublic colleges.

HR 64, by Representative P. Richardson: A RESOLUTION honoring the Kentucky State Police for providing security during this session of the 1990 Kentucky General Assembly.

HCR 65, by Representatives P. Richardson and Turner: A CONCURRENT RESOLUTION relating to starving legislators.

HR 66, by Representatives Cyrus and Deskins: A RESOLUTION adjourning the House of Representatives in honor of the United Mine Workers of America.

HR 67, by Representative Stumbo: A RESOLUTION commending ten Kentucky Artists' Paintings exhibited in the Margaret Willis Room.

HJR 68, by Representatives Blevins and Noland: A JOINT RESOLUTION continuing the Kentucky Water Management Task Force.

HR 69, by Representative Casebier: A RESOLUTION adjourning the House of Representatives in memory an honor of William Alexander Foushee.

HR 70, by Representative Stumbo: A RESOLUTION commending the Council of State Governments and adjourning in honor thereof.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Education: **HB 304, HB 344, HJR 54**.

Appropriations and Revenue: **HB 358, HB 371, HB 375, HB 377**.

Report of Committees

The Committee on Banking and Insurance reported **HB 148**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 148, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.061 is amended to read as follows:

(1) ***When*** [~~Whenever~~] an application for approval of a corporation or facility provided for by KRS 287.050, 287.180, or 287.185 is made, notice of ***the*** [~~such~~] application shall be published.

(2) Any interested party shall have the opportunity to make written comments on whether the criteria for approval set forth in the particular statutory section have been met. Such party shall have access to all materials supplied by the applicant to the commissioner in connection with the application and all evidence assembled by the commissioner or his agents pertaining to ***the*** [~~said~~] application***, except for personal financial records, which shall be deemed confidential and not subject to public inspection***.

(3) The commissioner may cause a hearing to be held if, in his judgment, ***the*** [~~such~~] hearing is necessary to protect the rights of any party or otherwise advisable under the circumstances. ***In lieu of holding a hearing the commissioner may limit the comments regarding the application to the submission of written briefs by the parties.*** [~~Regardless of~~] Whether or not a hearing is held, the commissioner shall make the determinations required of him by the statutory sections mentioned in subsection (1) by means of a written order which sets forth the bases for his decision.

(4) When no hearing has been held and the commissioner has determined, by written order, that the proposed corporation or facility contemplated by the statutory sections mentioned in subsection (1) of this section should not be approved, he shall afford those parties seeking approval, and them only, a period of twenty (20) days after rendition of the order to request a public hearing. If a hearing is then held, he shall prepare a second written order which makes the particular determinations required by the above-mentioned statutory sections. This second order may contain bases for his determinations that are in addition to or different from those contained in the first order.

(5) Notice of hearings held pursuant to this section shall be given by advertising one (1) time in the newspaper with the largest circulation in the locality where the proposed corporation or facility is to be situated. ***The*** [~~Such~~] advertisement shall state the nature and location of the proposed corporation or facility, as well as the name of the corporation or parties applying for approval. The notice shall also state that any interested parties who wish to make written comments on the application shall so indicate to the department in writing within twenty (20) days after publication of the notice.

Section 2. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) ***The*** [~~Such~~] real estate is necessary or appropriate for the transaction of legitimate business ***and the acquisition has been approved by the commissioner as required by KRS 287.103***; and

(b) The cost of ***the*** [~~such~~] real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). ***The*** [~~Such~~] investment may exceed the bank's forty percent (40%) limit with prior written approval of the commissioner;

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor. A bank acquiring real estate in satisfaction of debts previously contracted in the course of business shall write down the acquisition at ten percent (10%) per year;

(4) Invest in the bonds of any federal home loan bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, sec. 12 U.S.C. sec. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real

property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business;

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, ***or a series of such company,*** whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(d) Any other obligations in which national banking associations organized under the laws of the United States are permitted to invest in directly;

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

(9) Invest in:

(a) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(10) (a) Invest in other real estate in the bank's generally accepted banking market. For purposes of this section, "the bank's generally accepted banking market" means the geographic banking market at the time the investment is made as defined by the Federal Reserve Bank in the federal reserve district in which the bank is located. ***The*** [~~Such~~] investment shall not exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment; and

(b) Investment in other real estate not to exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment, if the bank has acquired the real estate in satisfaction of a debt previously contracted and the investment is for the purpose of improving the real estate for sale. [~~Provided, however, that~~] Any real estate acquired in satisfaction of a debt previously contracted and improved by the bank shall be disposed of within five (5) years of the date of acquisition, with the commissioner authorized to extend such disposition upon written request of the bank for good cause shown on a year-to-year basis not exceeding an additional five (5) years;

(11) Own or operate a discount brokerage service either through the bank or a bona fide subsidiary of the bank; and

(12) Own or operate a travel agency either through the bank or a bona fide subsidiary of the bank.

Investments pursuant to subsections (7) and (9) of this section are subject to KRS 287.280 and 287.290. For purposes of computing the maximum investment of a bank in bonds, notes and other [~~such~~] investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

Section 3. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless ***the*** [~~such~~] person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but [~~in no event shall~~] the indebtedness or obligation of any person ***shall not*** exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company.

(2) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated. [~~Such indebtedness, which term includes granting a line of credit, or obligation, is permitted if:~~

~~(a) The indebtedness or obligation is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank or trust company with other persons not covered by this subsection and does not involve more than the normal risk of repayment or present other unfavorable features; and~~

~~(b) The indebtedness or obligation has been approved in advance by a majority of the entire board of directors of the bank or trust company and the interested party has abstained from participating directly or indirectly in the voting provided, that approval by the board of directors under this paragraph is not required:~~

~~1. For an indebtedness or obligation incurred pursuant to a line of credit that was approved under this paragraph within fourteen (14) months of the date the indebtedness or obligation is incurred; or~~

~~2. If the indebtedness or obligation, when aggregated with all other indebtednesses or obligations of the director or executive officer or of any related interest of the director or executive officer, is less than the higher of twenty-five thousand dollars ($25,000) or five percent (5%) of the paid-in capital and actual surplus of the bank or trust company.~~

~~In no event may a bank or trust company permit any one (1) of its directors or executive officers, or any related interest of that person, to become indebted or obligated to it in an amount that, when aggregated with all other indebtednesses or obligations of that person, and all related interests of that person, exceeds five hundred thousand dollars ($500,000), except by complying with the requirements of this subsection.~~

~~(3) For purposes of subsection (2) of this section:~~

~~(a) The term "indebtedness" or "obligation" does not include an indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement by which a bank or trust company acquires charge or time credit accounts or makes payments to or on behalf of participants in a bank credit card plan, check credit plan, interest bearing overdraft credit plan or similar open-end credit plan if the indebtedness does not involve prior individual clearance or approval by the bank or trust company other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and the indebtedness is incurred under terms that are not more favorable than those offered to the general public;~~

~~(b) As used in this section, "executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer an assistant, or the officer is serving without salary or other compensation. The chairman of the board, the president, every vice-president, the cashier, the secretary, and the treasurer of a bank or trust company are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company, and the officer does not actually participate therein; and~~

~~(c) As used in this section, "related interest" means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein that is controlled by a person or a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person. Any of the foregoing entities or committee are controlled by a person if that person directly or indirectly, or acting through or in concert with one (1) or more persons:~~

~~1. Owns, controls, or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the entity or committees;~~

~~2. Controls in any manner the election of a majority of the directors of the entity or committee; or~~

~~3. Has the power to exercise a controlling influence over the management or policies of the entity or committee.~~]

(3)[~~(4)~~] In computing the indebtedness of any person, the liability of any partnership in which the person acts as a general partner shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(4)[~~(5)~~] Except as otherwise provided in this section, the same security, both in kind and amount, shall

be required from stockholders as from nonstockholders.

(5)[~~(6)~~] The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating ***the*** [~~such~~] paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating ***the*** [~~such~~] paper to a bank.

Section 4. KRS 287.290 is amended to read as follows:

In the case of obligations to banks and trust companies, the limitations and restrictions of KRS 287.280 shall not apply to:

(1) Obligations of the United States or of the state of Kentucky;

(2) Obligations guaranteed as to principal and interest by the United States or the state of Kentucky; or all obligations to the extent secured or covered by guarantees or by commitments or agreements to take over or to purchase the same made by any federal reserve bank or by the United States or by any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; or consolidated bonds issued by or for federal land banks or consolidated debentures issued by or for federal intermediate credit banks under the act of congress known as the "Federal Farm Loan Act," and amendments thereto; or consolidated debentures issued by or for banks for cooperatives under the act of congress known as the "Farm Credit Act of 1933," and amendments thereto; or obligations issued by the federal home loan banks; or obligations which are insured by the federal housing administrator pursuant to title 12, section 12, section 1713, United States Code, if the debentures to be issued in payment of such insured obligations are guaranteed as to the principal and interest by the United States; or obligations of national mortgage associations; [~~except that the commissioner may make, alter and repeal regulations respecting the total liabilities of any person which:~~

~~(a) Are secured by direct obligations of the United States or the state of Kentucky, and~~

~~(b) Have a face value at least equal to the amount of such liabilities, and~~

~~(c) Will mature within five (5) years from the date such liabilities were incurred.~~]

(3) Obligations of Kentucky counties and school districts incurred through borrowing in anticipation of the current year's tax receipts as authorized by KRS 68.320 and 160.540***;***

(4) Loans or extensions of credit fully secured by:

(a) General obligations of the state of Kentucky or any political subdivision or agency thereof or of any county, city or urban-county government;

(b) Bonds, notes, certificates of indebtedness, or treasury bills of the United States or other instruments fully guaranteed as to principal and interest by the United States; or

(c) Segregated deposit accounts or certificates of deposit; or

(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States. This exception may apply to only that portion of a loan or extension of credit that is covered by the federal guarantee or commitment.

Section 5. KRS 287.450 is amended to read as follows:

(1) Every bank or trust company doing business under the laws of this state shall be subject to inspection by the commissioner or by an examiner appointed by the commissioner. Examination shall be made of every bank and trust company at least once every twenty-four (24) months***, unless other examinations are accepted as provided in subsections (3) and (4) of this section,*** and not more than twice unless it appears from examination or from the reports of the bank or trust company that it has failed to comply with laws or regulations relating to banks or trust companies***, or has engaged in unsafe or unsound banking practices***.

(2) The commissioner, deputy commissioner and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the bank or trust company being examined.

(3) Any bank that becomes a member of a Federal Reserve Bank shall be subject to the examination required by the Federal Reserve Act, (38 Stat. 251) as amended, and the commissioner may, in his discretion, accept examinations made by the federal reserve authorities in lieu of examinations made under state laws. The commissioner shall furnish to the federal reserve agent of the district in which the member bank is

situated, copies of reports and examinations made of the member bank.

(4) The commissioner may, in his discretion, accept examinations made by the Federal Deposit Insurance Corporation in lieu of examinations made under state laws.

Section 6. KRS 287.455 is amended to read as follows:

In undertaking the examination of any bank or trust company, neither the Commonwealth of Kentucky, the commissioner, nor any examiner employed by the Commonwealth shall become liable to any depositor, investor, or other obligor of ***the*** [~~said~~] bank or trust company by reason of ***the*** [~~said~~] examination or omission of ***the*** [~~said~~] examination to fully and effectively disclose the financial condition of ***the*** [~~said~~] bank or trust company, it being the policy of the Commonwealth of Kentucky that such examinations as are required by KRS 287.450 and 287.460, are for the purpose of determining compliance with state law and not for the purpose of [~~protecting or~~] guaranteeing the depositors, investors or other obligors of ***the*** [~~said~~] bank or trust company.

Section 7. KRS 287.470 is amended to read as follows:

(1) Reports of examination of a bank or trust company shall be considered confidential information. No officer or director of a bank or trust company, [~~or~~] employee of the department, ***or employee of a state or federal regulatory authority*** shall release any information contained in the examination, except when:

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the bank, or to outside persons for the purpose of evaluating the bank for possible acquisition. Reports of examination released to outside persons providing professional services to the bank or for the purpose of evaluating the bank for possible acquisition, shall require a written request from such outside persons and prior approval by the board of directors or an executive committee of the bank.

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities, including the Federal Deposit Insurance Corporation, the Federal Reserve Board and the Office of the Comptroller of the Currency.

(3) Every official report concerning a bank or trust company, and every report of examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department, bank or trust company is a party.

Section 8. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation, [~~and to the approval of~~] applications for branch banks ***and loan production offices, and applications to relocate a main or branch office***, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;

(2) For each report, a filing fee of twenty-five dollars ($25);

(3) For each bank subject to inspection and examination by the commissioner, an annual assessment based on the assets of ***the*** [~~such~~] banks, other than assets held by it in a fiduciary capacity, as reported to the department by the banks as of the thirty-first day of December of the previous year. The assessment schedule shall be at ***the*** [~~such~~] rates [~~as~~] the commissioner shall determine to be necessary to carry out the duties of the department and shall be reasonably related to the costs, [~~(~~other than costs of examination,~~)~~] incurred by the department in regulating banks. The assessments for any one (1) year shall not exceed a sum equal to five cents (5) per each one thousand dollars ($1,000) and any fraction thereof of the total non-trust assets;

(4) For any examinations under KRS 287.450, a fee shall be collected sufficient to cover the cost of the examination based upon fair compensation for time and actual expense;

(5) For the examination of the assets held by the institution in a fiduciary capacity, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense. The commissioner may accept examinations made of the trust department in combined banks and trust companies by examiners for the Federal Reserve System, Federal Deposit Insurance Corporation, or a certified public accountant; and

(6) Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the commissioner, shall be paid for by ***the*** [~~such~~] institution upon the basis of fair compensation for time and actual expense.

Section 9. KRS 287.690 is amended to read as follows:

(1) If the commissioner has knowledge or reasonable cause to believe that any bank or trust company, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the bank or trust company has engaged in violations of law, or charter, rule or regulation by the department, or in unsafe or unsound business practices, he may issue and serve upon ***the*** [~~such~~] bank, trust company, director, officer, employee, agent or other person a notice of charges containing a statement of facts with respect to alleged violations or practices, and not earlier than thirty (30) days nor later than sixty (60) days after service of ***the*** [~~such~~] statement fix the time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank, trust company, director, officer, employee, agent or other person.

(2) Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order.

(3) ***If the parties*** [~~In the event of such~~] consent, or if upon the record made at any [~~such~~] hearing the commissioner shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, he may issue and serve upon the bank, trust company, director, officer, employee, agent or other person an order to cease and desist from any [~~such~~] violation or practice and, further, to take affirmative action to correct the conditions resulting from any [~~such~~] violation or practice.

(4) If the commissioner shall determine that the violation or practice, as specified in the notice of charges pursuant to subsection (1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or trust company, or is likely to otherwise seriously prejudice the interests of its depositors or investors, he may issue a temporary order requiring the bank or trust company, director, officer, employee, agent or other person to cease and desist from any [~~such~~] violation or practice.

(5) A cease and desist order or temporary cease and desist order shall become effective upon service upon the bank or trust company or at the expiration of not more than thirty (30) days after the date of service. Unless set aside, limited or suspended, as provided by subsection (6) of this section, a cease and desist order shall remain effective and enforceable pending completion of the administrative proceedings until the commissioner shall dismiss all specified charges, or, where a temporary cease and desist order has issued, until the effective date of a cease and desist order.

(6) Within ten (10) days after service of a temporary cease and desist order, the party or parties served may apply to the Circuit Court for the county in which the bank is located, or the Circuit Court of Franklin county, for an injunction setting aside, limiting, or suspending the enforcement, operation or effectiveness of ***the*** [~~such~~] order pending completion of administrative proceedings, and ***the*** [~~such~~] court shall have jurisdiction to issue an injunction.

(7) In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order ***or cease and desist order*** issued pursuant to this section, the commissioner may apply to the Circuit Court for the county in which the bank or trust company is located, or the Circuit Court of Franklin County, for an injunction to enforce ***the*** [~~such~~] order, and it shall be the duty of the court to issue ***the*** [~~such~~] injunction.

(8) If the commissioner shall determine that any officer or director of a bank or trust company has committed any violation of law, rule or regulation or of a cease and desist order which has become final, or has engaged in or participated in any unsafe or unsound practice in connection with the bank or trust company, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as [~~such~~] officer or director, and the commissioner determines that the bank or trust company has suffered or will probably suffer substantial financial loss or other damages or that the interests of its depositors or investors could be seriously prejudiced by reason of ***the*** [~~such~~] violation or practice of breach of fiduciary duty or that the director or officer has received financial gain by reason of the violation or practice or breach of fiduciary duty, the commissioner may serve upon ***the*** [~~such~~] director or officer a written notice of intention to remove him from office. The violation, practice or breach ***shall*** [~~must~~] be one (1) involving personal dishonesty on the part of ***the*** [~~such~~] director or officer, or one (1) which demonstrates a willful or continuing disregard for the safety or soundness of the bank. The written notice shall serve to suspend the officer or director from office. ***The*** [~~Such~~] suspension shall become effective upon service of ***the*** [~~such~~] notice and, unless stayed by a court in proceedings authorized by subsection (10) of this section, shall remain in effect pending the completion of the administrative proceedings under subsection (9) of this section and until ***the*** [~~such~~] time [~~as~~] the commissioner shall dismiss the charges specified in ***the*** [~~such~~] notice or, if an order of removal is issued against the officer or director, the effective date of ***the*** [~~any such~~] order. ***The resignation of an officer or director from the bank shall not prohibit the commissioner from pursuing an action for removal of the officer or director.***

(9) A notice of intention to remove an officer or director from office shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. ***The*** [~~Such~~] hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after the date of service of ***the*** [~~such~~] notice***,***[~~;~~] unless an earlier date is set by the commissioner at the request of ***the*** [~~such~~] officer or director and for good cause shown. Unless ***the*** [~~such~~] officer or director shall appear at the hearing in person or by duly authorized representative, he shall be deemed to have consented to the issuance of an order of [~~such~~] removal: ***If the parties*** [~~In the event of such~~] consent, or if upon the record made at any [~~such~~] hearing the commissioner shall find that any of the grounds specified in ***the*** [~~such~~] notice have been established, the commissioner may issue [~~such~~] orders of suspension or removal from office as he deems appropriate.

(10) Within ten (10) days after an officer or director has been suspended from office, ***the*** [~~such~~] officer or director may apply to the Circuit Court for the county in which the bank or trust company is located for a stay of ***the*** [~~such~~] suspension pending the completion of the administrative proceedings pursuant to the notice served upon ***the*** [~~such~~] officer or director, and ***the*** [~~such~~] court shall have jurisdiction to grant ***the*** [~~such~~] stay.

(11) The bank, trust company or person assessed shall be afforded an opportunity for a hearing upon request made to the commissioner within ten (10) days after issuance of the assessment notice. Any [~~such~~] hearing shall be on the record and the commissioner's determination shall constitute a final order. If no hearing is requested within the ten (10) days, the notice of assessment shall constitute a final order.

(12) Any person aggrieved by a final order of the commissioner under subsections (9) or (11) of this section may obtain a review of the order by filing in the Circuit Court for the county in which the bank or trust company is located a petition of appeal within ten (10) days after the rendition of a final order. A copy of the petition shall be served upon the commissioner and thereupon the commissioner or his agent shall certify and file in court a copy of the record or other evidence upon which the order is entered. No objection to the order may be considered by the court unless it was argued before the commissioner or there were reasonable grounds for failure to do so.

(13) The commissioner may apply to the Circuit Court for the county in which the bank or trust company is located for an injunction to enforce any order issued under subsection (9) of this section or any assessment made under subsection (11) of this section, and it shall be the duty of the court to issue ***the*** [~~such~~] injunction.

Section 10. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 287.030 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200).

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report ***the*** [~~such~~] fact to the commissioner, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employee of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from ***the*** [~~such~~] violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the Attorney General, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of ***the*** [~~such~~] facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who willfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall

forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in ***the*** [~~such~~] report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of one hundred dollars ($100) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed one thousand dollars ($1,000).

(9) Each person, bank or trust company that willfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

(10) ***If*** [~~Whenever~~] any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9) (15), (16), (17) or (18) of this section is not paid, the Attorney General shall institute an action, in the name of the state, in the Franklin Circuit Court or the Circuit Court of the county in which the offense was committed, for the recovery of the fine.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.720 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.720 to 287.770, except as a result of an accidental or bona fide error, shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of ***the*** [~~such~~] finance charge***, if the***[~~; provided such~~] action is commenced within two (2) years from the date ***the*** [~~such~~] violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank or trust company which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a fine of not more than one thousand dollars ($1,000) per day for each day ***the*** [~~such~~] violation continues. The fine shall be assessed by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the fine, the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank which violates the provisions of KRS 287.065(3) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). The fines shall be assessed by the commissioner by written notice.

(17) Any bank which violates any provisions of KRS 287.100(10) may be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for the first violation, and shall be fined not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000) for any subsequent violations.

(18) Any officer or director who violates the provisions of KRS 287.280(1) and ***(2) may*** [~~(3) shall~~] be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation, and any officer or director who violates the provisions of KRS 287.280(2) shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each violation. The fine shall be assessed by the commissioner by written notice.

Section 11. KRS 294.020 is amended to read as follows:

(1) The following shall be exempt from ***the licensing requirements of*** this chapter:

(a) Any person doing business under the laws of this state or any other state or the United States relating to banks, bank holding companies, trust companies, credit unions, savings and loan associations, service corporation subsidiaries of savings and loan associations, consumer finance companies, industrial loan companies, insurance companies or real estate investment trusts as defined in 26 U.S.C. Section 856 and the affiliates of ***the*** [~~such~~] companies, or mortgage loan companies regulated by the department of housing and urban development;

(b) An attorney at law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when ***he*** [~~such person~~] renders services in the course of his practice as an attorney at law;

(c) Any person doing any act under order of any court;

(d) Any natural person making a mortgage loan with his own funds for his own investment without intent to resell such mortgage loan;

(e) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent or investment adviser duly registered with the Kentucky division of securities;

(f) The United States of America, the Commonwealth of Kentucky or any other state, and any Kentucky city, county or other political subdivision, and any agency, division or corporate instrumentality of any of the foregoing;

(g) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA);

(h) Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as a real estate broker or real estate associate.

(2) Any person relying upon an exemption under subsection (1) of this section ***except banks, bank holding companies, trust companies, credit unions, savings and loan associations, consumer finance companies and industrial loan companies,*** shall file with the commissioner a claim of exemption, ***accompanied by the appropriate filing fee***. The commissioner shall thereafter determine the availability of the claimed exemption and he may not disallow an exemption that is validly claimed.

(3) Any person granted an exemption under subsection (2) of this section shall file with the commissioner a request for renewal of the exemption, accompanied by the appropriate fee, on July 1 each year after the exemption is granted.

Section 12. KRS 294.034 is amended to read as follows:

(1) An applicant for a license under this chapter ***shall*** [~~must~~] provide the commissioner with separate checks payable to the Kentucky State Treasurer for:

(a) An investigation fee of one hundred and fifty dollars ($150) for the principal office and forty dollars ($40) for each branch office; and

(b) A license fee of three hundred dollars ($300) for the principal office and two hundred dollars ($200) for each branch if the applicant applies for a license on or between July 1 and December 31 or of one hundred fifty dollars ($150) for the principal office and one hundred dollars ($100) for each branch if the applicant applies for a license on or between January 1 and June 30.

(2) A license under this chapter ***shall expire*** [~~expires~~] June 30 next after the date of issuance if it is not renewed.

(3) A license may be renewed by filing an application for renewal and paying the annual fee for renewing a license which is three hundred dollars ($300) for the main office and two hundred dollars ($200) for each branch office.

(4) The application and payment ***shall*** [~~must~~] be received by the commissioner on or before July 15 following the June 30 expiration date. If the application and payment are not received by July 15, the license ***shall be*** [~~is~~] cancelled. The commissioner may reinstate the license if the licensee pays the filing fee and a reinstatement fee of one hundred dollars ($100).

(5) The department shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar ($10) replacement fee.

(6) An applicant for an exemption under this chapter shall provide the commissioner with a check payable to the Kentucky State Treasurer for an application fee of fifty dollars ($50). An applicant for renewal

of an exemption shall provide the commissioner with a check payable to the Kentucky State Treasurer for a renewal fee of twenty-five dollars ($25).

Section 13. KRS 294.100 is amended to read as follows:

(1) No mortgage loan company or mortgage loan broker may establish or maintain a branch office without prior written approval of the commissioner.

(2) Each application for approval of the establishment and maintenance of a branch office shall state the proposed location, the functions to be performed and [~~such~~] other information which the commissioner may require if different from that contained in the original application for registration.

(3) Each application under this section shall be verified and accompanied by ***the appropriate fee as set out in KRS 294.034(1)(b)*** [~~a non-refundable fee of two hundred dollars ($200)~~].

(4) Upon the receipt by the commissioner of [~~such~~] an application and the required fee, if he finds that the applicant is otherwise in compliance with the provisions of this chapter, he shall approve the application.

Section 14. KRS 294.130 is amended to read as follows:

(1) All moneys paid to the mortgage loan company for payment of taxes or insurance premiums on property which secures any loan made or serviced by the mortgage loan company shall be deposited in an account which is insured by [~~the federal savings and loan insurance corporation or~~] the Federal Deposit Insurance Corporation or any other account acceptable to the Federal National Mortgage Association or the U. S. Department of ***Housing and*** Urban Development or the Government National Mortgage Association or the U. S. Veterans Administration and kept separate, distinct and apart from funds belong to the mortgage loan company. ***The*** [~~Such~~] funds, when deposited, ***shall*** [~~are to~~] be designated as an "escrow account" or under some other appropriate name indicating that the funds are not the funds of the mortgage loan company.

(2) Any interest earned on funds deposited into an escrow account under subsection (1) shall belong to the borrower and shall be applied to the expenses to be paid from ***the*** [~~such~~] account.

(3) The mortgage loan company shall, upon reasonable notice, account to any debtor whose property secures a loan made by the mortgage company for any funds which that person has paid to the mortgage loan company for the payment of taxes or insurance premiums on the property in question.

(4) The mortgage loan company shall, upon reasonable notice, account to the commissioner for all funds in in the company's escrow account.

(5) Escrow account funds ***shall*** [~~are~~] not ***be*** subject to execution or attachment on any claim against the mortgage company. It ***shall be*** [~~is~~] unlawful for any mortgage company to knowingly keep or cause to be kept any funds or money in any bank under the heading of "escrow account" or any other name designating ***the*** [~~such~~] funds or money belonging to the debtors of the mortgage loan company, except actual funds paid to the mortgage loan company for the payment of taxes and insurance premiums on property securing loans made or serviced by the company.

(6) Payments to the debtor's escrow account shall be promptly and properly credited. All escrowed taxes, insurance and other items shall be paid in a timely fashion and not later than the statutory or contractual deadline applicable thereto.

Section 15. KRS 294.180 is amended to read as follows:

(1) In the conduct of any examination, investigation or hearing, the commissioner or an officer designated by him may compel the attendance of any person or obtain any documents by subpoenas; administer oaths or affirmations in the examination of the directors, officers, agents, employees of any mortgage loan company, ***or mortgage loan broker*** or any other person concerning the business and conduct of affairs or any person subject to the provisions of this chapter, and in connection therewith may require and compel the production of any books, records, papers or other documents relevant to the inquiry.

(2) In the contumacy by, or refusal to obey a subpoena issued to, any person, Franklin Circuit Court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(3) The cost of any investigation or hearing conducted under KRS 294.190 may be assessed to and collected from the mortgage loan company ***or mortgage loan broker*** in question by the commissioner.

Section 16. KRS 294.190 is amended to read as follows:

(1) The commissioner may investigate either upon complaint or otherwise when it appears that a mortgage loan company ***or mortgage loan broker*** is conducting its business in an unsafe and injurious manner or in violation of this chapter, or any rule or order hereunder, or when it appears that any person is engaging in the mortgage loan business without being registered under the provisions of this chapter.

(2) ***If*** [~~Whenever~~] it appears to the commissioner upon sufficient grounds or evidence satisfactory to the commissioner that any mortgage loan company ***or mortgage loan broker*** has engaged in or is about to engage in any practice in violation of this chapter or any rule or order hereunder, [~~or the assets or capital of any mortgage loan company are impaired~~] or the mortgage loan company's ***or mortgage loan broker's*** affairs are in an unsafe condition the commissioner may:

(a) Order the mortgage loan company ***or mortgage loan broker*** to cease and desist from ***the*** [~~such~~] acts or practices by a formal written order delivered to the company ***or broker*** stating any alleged violation together with a statement of the facts alleged to be ***the*** [~~such~~] violation. The order shall specify the effective date thereof and notice of entry shall be served personally or sent by certified mail or telegraph to the company ***or broker*** affected. The company ***or broker***, upon application, ***shall be*** [~~is~~] entitled to a hearing; but if no [~~such~~] application is made within twenty (20) days after the delivery of ***the*** [~~such an~~] order, it shall be made final and shall remain in effect until withdrawn by the commissioner or terminated by a court order;

(b) Apply directly to Franklin Circuit Court to enjoin any acts or practices in violation of this chapter and to enforce compliance with this chapter or any rule or order hereunder. Upon proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond.

Section 17. KRS 294.200 is amended to read as follows:

Notice of the entry of any order of suspension or denial of a ***license to*** [~~registration of~~] any mortgage loan company ***or mortgage loan broker*** shall be given in writing, served personally or sent by certified mail or telegraph to the company ***or broker*** affected. The company ***or broker***, upon application, ***shall be*** [~~is~~] entitled to a hearing; but if no [~~such~~] application is made within twenty (20) days after the entry of an order of suspension or denial of a ***license to*** [~~registration of~~] any company ***or broker***, the commissioner shall enter a final order in either case.

Section 18. KRS 294.990 is amended to read as follows:

(1) Any person who wilfully violates any provision of this chapter, except KRS 294.220(1), or who willfully violates KRS 294.220(1) knowing the statement to be false or misleading in any material respect, shall be guilty of a Class D felony.

(2) Any person who willfully violates any rule or order of the commissioner, authorized under this chapter, shall be guilty of a Class A misdemeanor, but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.

(3) The commissioner may refer ***the*** [~~such~~] evidence [~~as is~~] available concerning violations of this chapter or any rule or order hereunder to the appropriate prosecuting attorney, who may, with or without [~~such~~] reference, institute the appropriate criminal proceeding under this chapter.

(4) Nothing in this chapter limits the powers of the state to punish any person for any conduct which constitutes a crime.

(5) The commissioner may assess a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) against any mortgage loan company that fails to perform the duties set out in KRS 294.130. The Attorney General shall institute an action, in the name of the Commonwealth, in the Franklin Circuit Court or the Circuit Court of the county in which the violation occurred, for the recovery of the fine.

Section 19. KRS 291.115 is amended to read as follows:

(1) Stockholders in investment companies shall be liable equally and ratably, and not one (1) for the other, for all contracts and liabilities of the company to the extent of the amount of their stock at par value, in addition to the amount of ***the*** [~~such~~] stock.

(2) Persons holding stock as fiduciaries shall not be personally liable as stockholders, but the estates in their hands shall be liable the same as the property of other stockholders.

(3) No transfer of stock shall release any [~~such~~] liability existing at the time of the transfer if the action to enforce ***the*** [~~such~~] liability is commenced within two (2) years from the time of transfer.

[~~(4) The liability of stockholders provided by this section may be enforced as provided in KRS 287.365 for stockholders of banks and trust companies.~~]

Section 20. The following KRS sections are repealed:

287.325 Advertising notice required where not federally insured.

287.360 Double liability for certain stock issued prior to May 16, 1936.

287.365 Enforcement of stockholders' liability.

The Committee Substitute to **HB 148** is as follows:

HB 148, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.061 is amended to read as follows:

(1) ***When*** [~~Whenever~~] an application for approval of a corporation or facility provided for by KRS 287.050, 287.180, or 287.185 is made, notice of ***the*** [~~such~~] application shall be published.

(2) Any interested party shall have the opportunity to make written comments on whether the criteria for approval set forth in the particular statutory section have been met. Such party shall have access to all materials supplied by the applicant to the commissioner in connection with the application and all evidence assembled by the commissioner or his agents pertaining to ***the*** [~~said~~] application***, except for personal financial records, which shall be deemed confidential and not subject to public inspection.***

(3) The commissioner may cause a hearing to be held if, in his judgment, ***the*** [~~such~~] hearing is necessary to protect the rights of any party or otherwise advisable under the circumstances. ***In lieu of holding a hearing the commissioner may limit the comments regarding the application to the submission of written briefs by the parties.*** [~~Regardless of~~] Whether or not a hearing is held, the commissioner shall make the determinations required of him by the statutory sections mentioned in subsection (1) by means of a written order which sets forth the bases for his decision.

(4) When no hearing has been held and the commissioner has determined, by written order, that the proposed corporation or facility contemplated by the statutory sections mentioned in subsection (1) of this section should not be approved, he shall afford those parties seeking approval, and them only, a period of twenty (20) days after rendition of the order to request a public hearing. If a hearing is then held, he shall prepare a second written order which makes the particular determinations required by the above-mentioned statutory sections. This second order may contain bases for his determinations that are in addition to or different from those contained in the first order.

(5) Notice of hearings held pursuant to this section shall be given by advertising one (1) time in the newspaper with the largest circulation in the locality where the proposed corporation or facility is to be situated. ***The*** [~~Such~~] advertisement shall state the nature and location of the proposed corporation or facility, as well as the name of the corporation or parties applying for approval. The notice shall also state that any interested parties who wish to make written comments on the application shall so indicate to the department in writing within twenty (20) days after publication of the notice.

Section 2. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) ***The*** [~~Such~~] real estate is necessary or appropriate for the transaction of legitimate business ***and the acquisition has been approved by the commissioner as required by KRS 287.103***; and

(b) The cost of ***the*** [~~such~~] real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). ***The*** [~~Such~~] investment may exceed the bank's forty percent (40%) limit with prior written approval of the commissioner;

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor. A bank acquiring real estate in satisfaction of debts previously contracted in the course of business shall write down the acquisition at ten percent (10%) per year;

(4) Invest in the bonds of any federal home loan bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, sec. 12 U.S.C. sec. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business;

(7) Purchase, hold, and convey the shares of any ***O***pen end registered investment company registered under the Investment Company Act of 1940, ***or a series of such company,*** whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(d) Any other obligations in which national banking associations organized under the laws of the United States are permitted to invest in directly;

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

(9) Invest in:

(a) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(10) (a) Invest in other real estate in the bank's generally accepted banking market. For purposes of this section, "the bank's generally accepted banking market" means the geographic banking market at the time the investment is made as defined by the Federal Reserve Bank in the federal reserve district in which the bank is located. ***The*** [~~Such~~] investment shall not exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment; and

(b) Investment in other real estate not to exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment, if the bank has acquired the real estate in satisfaction of a debt previously contracted and the investment is for the purpose of improving the real estate for sale. [~~Provided, however, that~~] Any real estate acquired in satisfaction of a debt previously contracted and improved by the bank shall be disposed of within five (5) years of the date of acquisition, with the commissioner authorized to extend such disposition upon written request of the bank for good cause shown on a year-to-year basis not exceeding an additional five (5) years;

(11) Own or operate a discount brokerage service either through the bank or a bona fide subsidiary of the bank; and

(12) Own or operate a travel agency either through the bank or a bona fide subsidiary of the bank.

Investments pursuant to subsections (7) and (9) of this section are subject to KRS 287.280 and 287.290. For purposes of computing the maximum investment of a bank in bonds, notes and other [~~such~~] investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

Section 3. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless ***the*** [~~such~~] person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but [~~in no event shall~~] the indebtedness or obligation of any person ***shall not*** exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company.

(2) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated. [~~Such indebtedness, which term includes granting a line of credit, or obligation, is permitted if:~~

~~(a) The indebtedness or obligation is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank or trust company with other persons not covered by this subsection and does not involve more than the normal risk of repayment or present other unfavorable features; and~~

~~(b) The indebtedness or obligation has been approved in advance by a majority of the entire board of directors of the bank or trust company and the interested party has abstained from participating directly or indirectly in the voting provided, that approval by the board of directors under this paragraph is not required:~~

~~1. For an indebtedness or obligation incurred pursuant to a line of credit that was approved under this paragraph within fourteen (14) months of the date the indebtedness or obligation is incurred; or~~

~~2. If the indebtedness or obligation, when aggregated with all other indebtednesses or obligations of the director or executive officer or of any related interest of the director or executive officer, is less than the higher of twenty-five thousand dollars ($25,000) or five percent (5%) of the paid-in capital and actual surplus of the bank or trust company.~~

~~In no event may a bank or trust company permit any one (1) of its directors or executive officers, or any related interest of that person, to become indebted or obligated to it in an amount that, when aggregated with all other indebtednesses or obligations of that person, and all related interests of that person, exceeds five hundred thousand dollars ($500,000), except by complying with the requirements of this subsection.~~

~~(3) For purposes of subsection (2) of this section:~~

~~(a) The term "indebtedness" or "obligation" does not include an indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement by which a bank or trust company acquires charge or time credit accounts or makes payments to or on behalf of participants in a bank credit card plan, check credit plan, interest bearing overdraft credit plan or similar open-end credit plan if the indebtedness does not involve prior individual clearance or approval by the bank or trust company other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and the indebtedness is incurred under terms that are not more favorable than those offered to the general public;~~

~~(b) As used in this section, "executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer an assistant, or the officer is serving without salary or other compensation. The chairman of the board, the president, every vice-president, the cashier, the secretary, and the treasurer of a bank or trust company are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company, and the officer does not actually participate therein; and~~

~~(c) As used in this section, "related interest" means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein that is controlled by a person or a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person. Any of the foregoing entities or committee are controlled by a person if that person directly or indirectly, or acting through or in concert with one (1) or more persons:~~

~~1. Owns, controls, or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the entity or committees;~~

~~2. Controls in any manner the election of a majority of the directors of the entity or committee; or~~

~~3. Has the power to exercise a controlling influence over the management or policies of the entity or committee.~~]

(3)[~~(4)~~] In computing the indebtedness of any person, the liability of any partnership in which the person acts as a general partner shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(4)[~~(5)~~] Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(5)[~~(6)~~] The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating ***the*** [~~such~~] paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating ***the*** [~~such~~] paper to a bank.

Section 4. KRS 287.290 is amended to read as follows:

In the case of obligations to banks and trust companies, the limitations and restrictions of KRS 287.280 shall not apply to:

(1) Obligations of the United States or of the state of Kentucky;

(2) Obligations guaranteed as to principal and interest by the United States or the state of Kentucky; or all obligations to the extent secured or covered by guarantees or by commitments or agreements to take over or to purchase the same made by any federal reserve bank or by the United States or by any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; or consolidated bonds issued by or for federal land banks or consolidated debentures issued by or for federal intermediate credit banks under the act of congress known as the "Federal Farm Loan Act," and amendments thereto; or consolidated debentures issued by or for banks for cooperatives under the act of congress known as the "Farm Credit Act of 1933," and amendments thereto; or obligations issued by the federal home loan banks; or obligations which are insured by the federal housing administrator pursuant to title 12, section 12, section 1713, United States Code, if the debentures to be issued in payment of such insured obligations are guaranteed as to the principal and interest by the United States; or obligations of national mortgage associations; [~~except that the commissioner may make, alter and repeal regulations respecting the total liabilities of any person which:~~

~~(a) Are secured by direct obligations of the United States or the state of Kentucky, and~~

~~(b) Have a face value at least equal to the amount of such liabilities, and~~

~~(c) Will mature within five (5) years from the date such liabilities were incurred.~~]

(3) Obligations of Kentucky counties and school districts incurred through borrowing in anticipation of the current year's tax receipts as authorized by KRS 68.320 and 160.540*;*

(4) Loans or extensions of credit fully secured by:

(a) General obligations of the state of Kentucky or any political subdivision or agency thereof or of any county, city or urban-county government;

(b) Bonds, notes, certificates of indebtedness, or treasury bills of the United States or other instruments fully guaranteed as to principal and interest by the United States; or

(c) Segregated deposit accounts or certificates of deposit; or

(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States. This exception may apply to only that portion of a loan or extension of credit that is covered by the federal guarantee or commitment.

Section 5. KRS 287.450 is amended to read as follows:

(1) Every bank or trust company doing business under the laws of this state shall be subject to inspection by the commissioner or by an examiner appointed by the commissioner. Examination shall be made of every bank and trust company at least once every twenty-four (24) months***, unless other examinations are accepted as provided in subsections (3) and (4) of this section,*** and not more than twice unless it appears from examination or from the reports of the bank or trust company that it has failed to comply with laws or regulations relating to banks or trust companies***, or has engaged in unsafe or unsound banking practices.***

(2) The commissioner, deputy commissioner and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the bank or trust company being examined.

(3) Any bank that becomes a member of a Federal Reserve Bank shall be subject to the examination required by the Federal Reserve Act, (38 Stat. 251) as amended, and the commissioner may, in his discretion, accept examinations made by the federal reserve authorities in lieu of examinations made under state laws. The commissioner shall furnish to the federal reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank.

(4) The commissioner may, in his discretion, accept examinations made by the Federal Deposit Insurance Corporation in lieu of examinations made under state laws.

Section 6. KRS 287.455 is amended to read as follows:

In undertaking the examination of any bank or trust company, neither the Commonwealth of Kentucky, the commissioner, nor any examiner employed by the Commonwealth shall become liable to any depositor, investor, or other obligor of ***the*** [~~said~~] bank or trust company by reason of ***the*** [~~said~~] examination or omission of ***the*** [~~said~~] examination to fully and effectively disclose the financial condition of ***the*** [~~said~~] bank or trust company, it being the policy of the Commonwealth of Kentucky that such examinations as are required by KRS 287.450 and 287.460, are for the purpose of determining compliance with state law and not for the purpose of [~~protecting or~~] guaranteeing the depositors, investors or other obligors of ***the*** [~~said~~] bank or trust company.

Section 7. KRS 287.470 is amended to read as follows:

(1) Reports of examination of a bank or trust company shall be considered confidential information. No officer or director of a bank or trust company***,*** [~~or~~] employee of the department***, or employee of a state or federal regulatory authority*** shall release any information contained in the examination, except when:

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the bank, or to outside persons for the purpose of evaluating the bank for possible acquisition. Reports of examination released to outside persons providing professional services to the bank or for the purpose of evaluating the bank for possible acquisition, shall require a written request from such outside persons and prior approval by the board of directors or an executive committee of the bank.

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities, including the Federal Deposit Insurance Corporation, the Federal Reserve Board and the Office of the Comptroller of the Currency.

(3) Every official report concerning a bank or trust company, and every report of examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department, bank or trust company is a party.

Section 8. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation***,*** [~~and to the approval of~~] applications for branch banks ***and loan production offices, and applications to relocate a main or branch office***, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;

(2) For each report, a filing fee of twenty-five dollars ($25);

(3) For each bank subject to inspection and examination by the commissioner, an annual assessment based on the assets of ***the*** [~~such~~] banks, other than assets held by it in a fiduciary capacity, as reported to the department by the banks as of the thirty-first day of December of the previous year. The assessment schedule shall be at ***the*** [~~such~~] rates [~~as~~] the commissioner shall determine to be necessary to carry out the duties of the department and shall be reasonably related to the costs***,*** [~~(~~]other than costs of examination***,***[~~)~~] incurred by the department in regulating banks. The assessments for any one (1) year shall not exceed a sum equal to five cents (5) per each one thousand dollars ($1,000) and any fraction thereof of the total non-trust assets;

(4) For any examinations under KRS 287.450, a fee shall be collected sufficient to cover the cost of the examination based upon fair compensation for time and actual expense;

(5) For the examination of the assets held by the institution in a fiduciary capacity, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense. The commissioner may accept examinations made of the trust department in combined banks and trust companies by examiners for the Federal Reserve System, Federal Deposit Insurance Corporation, or a certified public accountant; and

(6) Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the commissioner, shall be paid for by ***the*** [~~such~~] institution upon the basis of fair compensation for time and actual expense.

Section 9. KRS 287.690 is amended to read as follows:

(1) If the commissioner has knowledge or reasonable cause to believe that any bank or trust company, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the bank or trust company has engaged in violations of law, or charter, rule or regulation by the department, or in unsafe or unsound business practices, he may issue and serve upon ***the*** [~~such~~] bank, trust company, director, officer, employee, agent or other person a notice of charges containing a statement of facts with respect to alleged violations or practices, and not earlier than thirty (30) days nor later than sixty (60) days after service of ***the*** [~~such~~] statement fix the time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank, trust company, director, officer, employee, agent or other person.

(2) Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order.

(3) ***If the parties*** [~~In the event of such~~] consent, or if upon the record made at any [~~such~~] hearing the commissioner shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, he may issue and serve upon the bank, trust company, director, officer, employee, agent or other person an order to cease and desist from any [~~such~~] violation or practice and, further, to take affirmative action to correct the conditions resulting from any [~~such~~] violation or practice.

(4) If the commissioner shall determine that the violation or practice, as specified in the notice of charges pursuant to subsection (1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or trust company, or is likely to otherwise seriously prejudice the interests of its depositors or investors, he may issue a temporary order requiring the bank or trust company, director, officer, employee, agent or other person to cease and desist from any [~~such~~] violation or practice.

(5) A cease and desist order or temporary cease and desist order shall become effective upon service upon the bank or trust company or at the expiration of not more than thirty (30) days after the date of service. Unless set aside, limited or suspended, as provided by subsection (6) of this section, a cease and desist order shall remain effective and enforceable pending completion of the administrative proceedings until the commissioner shall dismiss all specified charges, or, where a temporary cease and desist order has issued, until the effective date of a cease and desist order.

(6) Within ten (10) days after service of a temporary cease and desist order, the party or parties served may apply to the Circuit Court for the county in which the bank is located, or the Circuit Court of Franklin county, for an injunction setting aside, limiting, or suspending the enforcement, operation or effectiveness of ***the*** [~~such~~] order pending completion of administrative proceedings, and ***the*** [~~such~~] court shall have jurisdiction to issue an injunction.

(7) In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order ***or cease and desist order*** issued pursuant to this section, the commissioner may apply to the Circuit Court for the county in which the bank or trust company is located, or the Circuit Court of Franklin County, for an injunction to enforce ***the*** [~~such~~] order, and it shall be the duty of the court to issue ***the*** [~~such~~] injunction.

(8) If the commissioner shall determine that any officer or director of a bank or trust company has committed any violation of law, rule or regulation or of a cease and desist order which has become final, or has engaged in or participated in any unsafe or unsound practice in connection with the bank or trust company, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as [~~such~~] officer or director, and the commissioner determines that the bank or trust company has suffered or will probably suffer substantial financial loss or other damages or that the interests of its depositors or investors could be seriously prejudiced by reason of ***the*** [~~such~~] violation or practice of breach of fiduciary duty or that the director or officer has received financial gain by reason of the violation or practice or breach of fiduciary duty, the commissioner may serve upon ***the*** [~~such~~] director or officer a written notice

of intention to remove him from office. The violation, practice or breach ***shall*** [~~must~~] be one (1) involving personal dishonesty on the part of ***the*** [~~such~~] director or officer, or one (1) which demonstrates a willful or continuing disregard for the safety or soundness of the bank. The written notice shall serve to suspend the officer or director from office. ***The*** [~~Such~~] suspension shall become effective upon service of ***the*** [~~such~~] notice and, unless stayed by a court in proceedings authorized by subsection (10) of this section, shall remain in effect pending the completion of the administrative proceedings under subsection (9) of this section and until ***the*** [~~such~~] time [~~as~~] the commissioner shall dismiss the charges specified in ***the*** [~~such~~] notice or, if an order of removal is issued against the officer or director, the effective date of ***the*** [~~any such~~] order. ***The resignation of an officer or director from the bank shall not prohibit the commissioner from pursuing an action for removal of the officer or director.***

(9) A notice of intention to remove an officer or director from office shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. ***The*** [~~Such~~] hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after the date of service of ***the*** [~~such~~] notice***,***[~~;~~] unless an earlier date is set by the commissioner at the request of ***the*** [~~such~~] officer or director and for good cause shown. Unless ***the*** [~~such~~] officer or director shall appear at the hearing in person or by duly authorized representative, he shall be deemed to have consented to the issuance of an order of [~~such~~] removal. ***If the parties*** [~~In the event of such~~] consent, or if upon the record made at any [~~such~~] hearing the commissioner shall find that any of the grounds specified in ***the*** [~~such~~] notice have been established, the commissioner may issue [~~such~~] orders of suspension or removal from office as he deems appropriate.

(10) Within ten (10) days after an officer or director has been suspended from office, ***the*** [~~such~~] officer or director may apply to the Circuit Court for the county in which the bank or trust company is located for a stay of ***the*** [~~such~~] suspension pending the completion of the administrative proceedings pursuant to the notice served upon ***the*** [~~such~~] officer or director, and ***the*** [~~such~~] court shall have jurisdiction to grant ***the*** [~~such~~] stay.

(11) The bank, trust company or person assessed shall be afforded an opportunity for a hearing upon request made to the commissioner within ten (10) days after issuance of the assessment notice. Any [~~such~~] hearing shall be on the record and the commissioner's determination shall constitute a final order. If no hearing is requested within the ten (10) days, the notice of assessment shall constitute a final order.

(12) Any person aggrieved by a final order of the commissioner under subsections (9) or (11) of this section may obtain a review of the order by filing in the Circuit Court for the county in which the bank or trust company is located a petition of appeal within ten (10) days after the rendition of a final order. A copy of the petition shall be served upon the commissioner and thereupon the commissioner or his agent shall certify and file in court a copy of the record or other evidence upon which the order is entered. No objection to the order may be considered by the court unless it was argued before the commissioner or there were reasonable grounds for failure to do so.

(13) The commissioner may apply to the Circuit Court for the county in which the bank or trust company is located for an injunction to enforce any order issued under subsection (9) of this section or any assessment made under subsection (11) of this section, and it shall be the duty of the court to issue ***the*** [~~such~~] injunction.

Section 10. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 287.030 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200).

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report ***the*** [~~such~~] fact to the commissioner, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employee of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from ***the*** [~~such~~] violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the Attorney General, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of ***the*** [~~such~~] facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who willfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in ***the*** [~~such~~] report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of one hundred dollars ($100) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed one thousand dollars ($1,000).

(9) Each person, bank or trust company that willfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

(10) ***If*** [~~Whenever~~] any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9) (15), (16), (17) or (18) of this section is not paid, the Attorney General shall institute an action, in the name of the state, in the Franklin Circuit Court or the Circuit Court of the county in which the offense was committed, for the recovery of the fine.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.720 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.720 to 287.770, except as a result of an accidental or bona fide error, shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of ***the*** [~~such~~] finance charge***, if the***[~~; provided such~~] action is commenced within two (2) years from the date ***the*** [~~such~~] violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank or trust company which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a fine of not more than one thousand dollars ($1,000) per day for each day ***the*** [~~such~~] violation continues. The fine shall be assessed by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the fine, the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank which violates the provisions of KRS 287.065(3) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). The fines shall be assessed by the commissioner by written notice.

(17) Any bank which violates any provisions of KRS 287.100(10) may be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for the first violation, and shall be fined not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000) for any subsequent violations.

(18) Any officer or director who violates the provisions of KRS 287.280(1) [~~and (3)~~] shall be fined not

less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation, and any officer or director who violates the provisions of KRS 287.280(2) shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each violation. The fine shall be assessed by the commissioner by written notice.

Section 11. KRS 294.020 is amended to read as follows:

(1) The following shall be exempt from this chapter:

[~~(a)~~] any person doing business under the laws of this state or any other state or the United States relating to banks, bank holding companies, trust companies, credit unions, savings and loan associations, service corporation subsidiaries of savings and loan associations, consumer finance companies, industrial loan companies, insurance companies or real estate investment trusts as defined in 26 U.S.C. Section 856 and the affiliates of ***the*** [~~such~~] companies.

(2) The following shall be exempt from the licensing requirements of this chapter:

(a) Mortgage loan companies regulated by the United States Department of Housing and Urban Development[~~, or mortgage loan companies regulated by the department of housing and urban development~~];

(b) An attorney at law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when ***he*** [~~such person~~] renders services in the course of his practice as an attorney at law;

(c) Any person doing any act under order of any court;

(d) Any natural person making a mortgage loan with his own funds for his own investment without intent to resell such mortgage loan;

(e) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent or investment adviser duly registered with the Kentucky division of securities;

(f) The United States of America, the Commonwealth of Kentucky or any other state, and any Kentucky city, county or other political subdivision, and any agency, division or corporate instrumentality of any of the foregoing;

(g) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA);

(h) Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as a real estate broker or real estate associate.

(3)[~~(2)~~] Any person relying upon an exemption under subsection ***(2)*** [~~(1)~~] of this section shall file with the commissioner a claim of exemption***, accompanied by the appropriate filing fee***. The commissioner shall thereafter determine the availability of the claimed exemption and he may not disallow an exemption that is validly claimed.

(4) Any person granted an exemption under subsection (3) of this section shall file with the commissioner a request for renewal of the exemption, accompanied by the appropriate fee, on July 1 each year after the exemption is granted.

Section 12. KRS 294.034 is amended to read as follows:

(1) An applicant for a license under this chapter ***shall*** [~~must~~] provide the commissioner with separate checks payable to the Kentucky State Treasurer for:

(a) An investigation fee of one hundred and fifty dollars ($150) for the principal office and forty dollars ($40) for each branch office; and

(b) A license fee of three hundred dollars ($300) for the principal office and two hundred dollars ($200) for each branch if the applicant applies for a license on or between July 1 and December 31 or of one hundred fifty dollars ($150) for the principal office and one hundred dollars ($100) for each branch if the applicant applies for a license on or between January 1 and June 30.

(2) A license under this chapter ***shall expire*** [~~expires~~] June 30 next after the date of issuance if it is not renewed.

(3) A license may be renewed by filing an application for renewal and paying the annual fee for renewing

a license which is three hundred dollars ($300) for the main office and two hundred dollars ($200) for each branch office.

(4) The application and payment ***shall*** [~~must~~] be received by the commissioner on or before July 15 following the June 30 expiration date. If the application and payment are not received by July 15, the license ***shall be*** [~~is~~] cancelled. The commissioner may reinstate the license if the licensee pays the filing fee and a reinstatement fee of one hundred dollars ($100).

(5) The department shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar ($10) replacement fee.

(6) An applicant for an exemption under this chapter shall provide the commissioner with a check payable to the Kentucky State Treasurer for an application fee of fifty dollars ($50). An applicant for renewal of an exemption shall provide the commissioner with a check payable to the Kentucky State Treasurer for a renewal fee of twenty-five dollars ($25).

Section 13. KRS 294.100 is amended to read as follows:

(1) No mortgage loan company or mortgage loan broker may establish or maintain a branch office without prior written approval of the commissioner.

(2) Each application for approval of the establishment and maintenance of a branch office shall state the proposed location, the functions to be performed and [~~such~~] other information which the commissioner may require if different from that contained in the original application for registration.

(3) Each application under this section shall be verified and accompanied by ***the appropriate fee as set out in KRS 294.034(1)(b)*** [~~a non-refundable fee of two hundred dollars ($200)~~].

(4) Upon the receipt by the commissioner of [~~such~~] an application and the required fee, if he finds that the applicant is otherwise in compliance with the provisions of this chapter, he shall approve the application.

Section 14. KRS 294.130 is amended to read as follows:

(1) All moneys paid to the mortgage loan company for payment of taxes or insurance premiums on property which secures any loan made or serviced by the mortgage loan company shall be deposited in an account which is insured by [~~the federal savings and loan insurance corporation or~~] the Federal Deposit Insurance Corporation or any other account acceptable to the Federal National Mortgage Association or the U. S. Department of ***Housing and*** Urban Development or the Government National Mortgage Association or the U. S. Veterans Administration and kept separate, distinct and apart from funds belong to the mortgage loan company. ***The*** [~~Such~~] funds, when deposited, ***shall*** [~~are to~~] be designated as an "escrow account" or under some other appropriate name indicating that the funds are not the funds of the mortgage loan company.

(2) Any interest earned on funds deposited into an escrow account under subsection (1) shall belong to the borrower and shall be applied to the expenses to be paid from ***the*** [~~such~~] account.

(3) The mortgage loan company shall, upon reasonable notice, account to any debtor whose property secures a loan made by the mortgage company for any funds which that person has paid to the mortgage loan company for the payment of taxes or insurance premiums on the property in question.

(4) The mortgage loan company shall, upon reasonable notice, account to the commissioner for all funds in in the company's escrow account.

(5) Escrow account funds ***shall*** [~~are~~] not ***be*** subject to execution or attachment on any claim against the mortgage company. It ***shall be*** [~~is~~] unlawful for any mortgage company to knowingly keep or cause to be kept any funds or money in any bank under the heading of "escrow account" or any other name designating ***the*** [~~such~~] funds or money belonging to the debtors of the mortgage loan company, except actual funds paid to the mortgage loan company for the payment of taxes and insurance premiums on property securing loans made or serviced by the company.

(6) Payments to the debtor's escrow account shall be promptly and properly credited. All escrowed taxes, insurance and other items shall be paid in a timely fashion and not later than the statutory or contractual deadline applicable thereto.

Section 15. KRS 294.180 is amended to read as follows:

(1) In the conduct of any examination, investigation or hearing, the commissioner or an officer designated by him may compel the attendance of any person or obtain any documents by subpoenas; administer oaths or affirmations in the examination of the directors, officers, agents, employees of any mortgage loan company,

or mortgage loan broker or any other person concerning the business and conduct of affairs or any person subject to the provisions of this chapter, and in connection therewith may require and compel the production of any books, records, papers or other documents relevant to the inquiry.

(2) In the contumacy by, or refusal to obey a subpoena issued to, any person, Franklin Circuit Court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(3) The cost of any investigation or hearing conducted under KRS 294.190 may be assessed to and collected from the mortgage loan company ***or mortgage loan broker*** in question by the commissioner.

Section 16. KRS 294.190 is amended to read as follows:

(1) The commissioner may investigate either upon complaint or otherwise when it appears that a mortgage loan company ***or mortgage loan broker*** is conducting its business in an unsafe and injurious manner or in violation of this chapter, or any rule or order hereunder, or when it appears that any person is engaging in the mortgage loan business without being registered under the provisions of this chapter.

(2) ***If*** [~~Whenever~~] it appears to the commissioner upon sufficient grounds or evidence satisfactory to the commissioner that any mortgage loan company ***or mortgage loan broker*** has engaged in or is about to engage in any practice in violation of this chapter or any rule or order hereunder, [~~or the assets or capital of any mortgage loan company are impaired~~] or the mortgage loan company's ***or mortgage loan broker's*** affairs are in an unsafe condition the commissioner may:

(a) Order the mortgage loan company ***or mortgage loan broker*** to cease and desist from ***the*** [~~such~~] acts or practices by a formal written order delivered to the company ***or broker*** stating any alleged violation together with a statement of the facts alleged to be ***the*** [~~such~~] violation. The order shall specify the effective date thereof and notice of entry shall be served personally or sent by certified mail or telegraph to the company ***or broker*** affected. The company ***or broker***, upon application, ***shall be*** [~~is~~] entitled to a hearing; but if no [~~such~~] application is made within twenty (20) days after the delivery of ***the*** [~~such an~~] order, it shall be made final and shall remain in effect until withdrawn by the commissioner or terminated by a court order;

(b) Apply directly to Franklin Circuit Court to enjoin any acts or practices in violation of this chapter and to enforce compliance with this chapter or any rule or order hereunder. Upon proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond.

Section 17. KRS 294.200 is amended to read as follows:

Notice of the entry of any order of suspension or denial of a ***license to*** [~~registration of~~] any mortgage loan company ***or mortgage loan broker*** shall be given in writing, served personally or sent by certified mail or telegraph to the company ***or broker*** affected. The company ***or broker***, upon application, ***shall be*** [~~is~~] entitled to a hearing; but if no [~~such~~] application is made within twenty (20) days after the entry of an order of suspension or denial of a ***license to*** [~~registration of~~] any company ***or broker***, the commissioner shall enter a final order in either case.

Section 18. KRS 294.990 is amended to read as follows:

(1) Any person who wilfully violates any provision of this chapter, except KRS 294.220(1), or who willfully violates KRS 294.220(1) knowing the statement to be false or misleading in any material respect, shall be guilty of a Class D felony.

(2) Any person who willfully violates any rule or order of the commissioner, authorized under this chapter, shall be guilty of a Class A misdemeanor, but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.

(3) The commissioner may refer ***the*** [~~such~~] evidence [~~as is~~] available concerning violations of this chapter or any rule or order hereunder to the appropriate prosecuting attorney, who may, with or without [~~such~~] reference, institute the appropriate criminal proceeding under this chapter.

(4) Nothing in this chapter limits the powers of the state to punish any person for any conduct which constitutes a crime.

(5) The commissioner shall assess a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) against any mortgage loan company that fails to perform the duties set out in KRS 294.130.

The Attorney General shall institute an action, in the name of the Commonwealth, in the Franklin Circuit Court or the Circuit Court of the county in which the violation occurred, for the recovery of the fine.

Section 19. KRS 291.115 is amended to read as follows:

(1) Stockholders in investment companies shall be liable equally and ratably, and not one (1) for the other, for all contracts and liabilities of the company to the extent of the amount of their stock at par value, in addition to the amount of ***the*** [~~such~~] stock.

(2) Persons holding stock as fiduciaries shall not be personally liable as stockholders, but the estates in their hands shall be liable the same as the property of other stockholders.

(3) No transfer of stock shall release any [~~such~~] liability existing at the time of the transfer if the action to enforce ***the*** [~~such~~] liability is commenced within two (2) years from the time of transfer.

[~~(4) The liability of stockholders provided by this section may be enforced as provided in KRS 287.365 for stockholders of banks and trust companies.~~]

Section 20. The following KRS sections are repealed:

287.325 Advertising notice required where not federally insured.

287.360 Double liability for certain stock issued prior to May 16, 1936.

287.365 Enforcement of stockholders' liability.

The Committee on Banking and Insurance reported **HB 264**, with Committee Amendments attached thereto, and **HB 267**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 264, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others;

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1500) pounds or less which is not used in the occupation, profession or business of the insured; provided, however, that this section shall not apply:

a. To any policy issued under an automobile assigned risk plan;

b. To any policy insuring more than four (4) automobiles; or

c. To any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards;

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage;

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than three (3) months shall for the purpose of this section be considered as if written for a policy period or term of three (3) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and such policy may be terminated at the expiration of any annual period upon giving seventy-five (75) days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this section; and

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy;

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy; and

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least seventy-five (75) days' advance notice of its intention not to renew.

(6) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(7) If the insurer has manifested its willingness to renew by mailing or delivering a renewal notice, bill, certificate, or policy to the first-named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first-named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

(8) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (7) of this section.

(b) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(9) No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is handicapped or a physically disabled person, so long as the handicap or physical disability does not substantially impair the person's mechanically assisted driving ability.

(10) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. Such notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b).

(11) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(12) ***Except where the maximum limits of coverage have been purchased, every notice of renewal shall include a provision stating in substance that added uninsured motorists, underinsured motorists, and personal injury protection coverages may be purchased by the insured.***

(13) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employes, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

The Committee Amendment No. 1 to **HB 264** is as follows:

Amend printed copy of **HB 264** on page 7 after line 16 by adding

"Section 2. KRS 304.39-320 is amended to read as follows:

(1) As used in this section, "underinsured motorists" means a party with motor vehicle liability insurance coverage in an amount less ***than sufficient to reasonably compensate the adverse party or claimant*** [~~then a judgment recovered against that party~~] for damages on account of injury due to a motor vehicle accident.

(2) Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage not inconsistent with this section the insurance company agrees to pay its own insured for such uncompensated damages as he may ***be entitled to*** recover on account of injury due to a motor vehicle accident [~~because the judgment recovered against the owner of the other vehicle exceeds~~] ***in excess of*** the liability policy limits ***of an underinsured motorist*** thereon, to the extent of the underinsurance policy limits on the vehicle of the party recovering. [~~His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays.~~]

(3) An injured party who has recovered the full liability insurance limits of an underinsured motorist may maintain an action against his own insurance carrier to recover his underinsured motorist coverage, to the extent that reasonable compensation for his injuries exceeds the liability limits of the underinsured motorist.

(4) This Act shall apply to all tort actions in which money damages have not been adjudged as of the effective date of this Act.

The Committee Amendment No. 2 to **HB 264** is as follows:

Amend printed copy of **HB 264** on page 6, line 26 after the word "***of***" and before "***renewal***" by inserting the word "***first***"; and

On page 7, line 1 after the word "***provision***" and before "***stating***" by inserting "***or be accompanied by a notice***".

The Committee Amendment No. 3 to **HB 264** is as follows:

Amend printed copy of **HB 264** on page 7, after line 16, by inserting "Section 2. This Act shall become effective December 1, 1990.".

HB 267, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.18-120 TO 304.18-130 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 through 4 of this Act, "group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his discretion, designates as subject to Sections 1 through 4 of this Act, which:

(a) Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;

(b) Provide hospital or surgical expenses benefits or indemnities, other than for a specific disease or accidental injury only, or benefits for loss of time from employment; and

(c) Are delivered, issued for delivery, or renewed after the effective date of this Act.

SECTION 2. A NEW SECTION OF KRS 304.18-120 TO 304.18-130 IS CREATED TO READ AS FOLLOWS:

(1) If a group policy provides for automatic discontinuance of the policy after a premium charge has not been paid through a grace period allowed for the payment, the insurer shall be liable for valid claims for covered losses incurred prior to the end of the grace period.

(2) If the actions of the insurer after the end of the grace period indicate that it considers the policy as continuing in force beyond the end of the grace period, such as by continuing to recognize claims incurred after the end of the grace period, the insurer shall be liable for valid claims for losses beginning prior to the effective date of written notice of discontinuance to the policyholder or other person responsible for making premium payments to the insurer. The effective date of discontinuance shall not be prior to midnight at the end of the tenth scheduled work day after the date upon which the notice is mailed or delivered to the last known address of the policyholder or person responsible for making premium payments.

(3) This section shall not eliminate the responsibility of the insurer to notify persons of the right to continue or convert group health insurance coverage pursuant to KRS 304.18-110 and 304.18-120.

SECTION 3. A NEW SECTION OF KRS 304.18-120 TO 304.18-130 IS CREATED TO READ AS FOLLOWS:

(1) A group policy shall provide a reasonable provision for extension of benefits in the event of total disability at the date of discontinuance of the group policy or contract in accordance with this section.

(2) If the group policy provides benefits for loss of time from employment or specific indemnity during hospital confinement, discontinuance of the policy during a disability shall have no effect on benefits payable for that disability or confinement.

(3) In the case of hospital or medical expense coverages, a reasonable extension of benefits or accrued liability shall be required. A provision shall be considered reasonable:

(a) Under major medical coverages if it provides an extension of at least twelve (12) months; and

(b) Under other types of hospital or medical expense coverages if it provides an extension of at least ninety (90) days for expenses incurred during the period of disability or incurred within a period of at least ninety (90) days starting with a specific event which occurred while coverage was in force, such as an accident.

(4) Any applicable extension of benefits or accrued liability shall be described in the group policy as well as in group insurance certificates. The benefits payable during the period of extension or accrued liability may be subject to the group policy's regular benefit limits, such as benefits ceasing at exhaustion of a benefit period or a maximum benefit limitation.

SECTION 4. A NEW SECTION OF KRS 304.18-120 TO 304.18-130 IS CREATED TO READ AS FOLLOWS:

(1) This section shall indicate the insurer responsible for liability in those instances in which one (1) insurer's group policy replaces the group policy of another insurer.

(2) The prior insurer shall remain liable only to the extent of its accrued liabilities, extensions of benefits, and for persons who are under continued group health insurance coverage pursuant to KRS 304.18-110 at the time the group policy terminates. The position of the prior insurer shall be the same whether the group policyholder secures replacement coverage from a new insurer, self insures, or forgoes the provision of a group policy, except that termination of continued group health insurance coverage shall occur in accordance with KRS 304.18-110.

(3) The liability of a succeeding insurer shall be as follows:

(a) Each person who is eligible for coverage in accordance with the succeeding insurer's plan of benefits, in respect to classes eligible, activity at work, and nonconfinement rules, shall be covered by that insurer's plan of benefits.

(b) Each person not covered under the succeeding insurer's plan of benefits in accordance with paragraph (a) of this subsection shall nevertheless be covered by the succeeding insurer in accordance with the following

provisions if the person was validly covered, including benefit extensions, under the prior insurer on the date of termination of the prior insurer's group policy and if the person is a member of the class or classes of persons eligible for coverage under the succeeding insurer's plan. Any reference in the following provisions to a person who was or was not totally disabled shall be a reference to that person's status immediately prior to the date the succeeding insurer's coverage becomes effective.

1. The minimum level of benefits to be provided by the succeeding insurer shall be the applicable level of benefits of the prior insurer's group policy reduced by any benefits payable by the prior insurer under its group policy.

2. Coverage shall be provided by the succeeding insurer until at least the earliest of the following dates:

a. The date the person becomes insured according to paragraph (a) of this subsection;

b. For each type of coverage, the date the person's coverage would terminate in accordance with the succeeding insurer's group policy provisions applicable to individual termination of coverage; or

c. In the case of a person who was totally disabled and the type of coverage is one for which Section 3 of this Act requires an extension of accrued liability, the end of extension of accrued liability which is required of the prior insurer by Section 3 of this Act, or, if the prior insurer's group policy is not subject to Section 3 of this Act, would have been required of that insurer had its group policy been subject to Section 3 of this Act at the time the prior insurer's group policy was discontinued and replaced by the succeeding insurer's plan.

(c) In the case of a preexisting conditions limitation in the succeeding insurer's group policy, the level of benefits applicable to preexisting conditions of persons becoming covered by the succeeding insurer's plan in accordance with this subsection during the period of time this limitation applies under the succeeding insurer's group policy shall be the lesser of:

1. The benefits of the succeeding insurer's group policy determined without application of the preexisting conditions limitation; or

2. The benefits of the prior insurer's group policy.

(d) The succeeding insurer, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior group policy. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior insurer's group policy during the ninety (90) days preceding the effective date of the succeeding insurer's group policy, but only to the extent these expenses are recognized under the terms of the succeeding insurer's group policy and are subject to similar deductible provisions.

(e) If a determination of the prior insurer's benefit is required by the succeeding insurer, at the succeeding insurer's request the prior insurer shall furnish a statement of the benefits available or pertinent information sufficient to permit verification of the benefit determination or the determination itself by the succeeding insurer. For purposes of this section, benefits of the prior insurer's group policy shall be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior insurer's group policy rather than those of the succeeding insurer's group policy. The benefit determination shall be made as if coverage had not been replaced by the succeeding insurer.

SECTION 5. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Corporations subject to this subtitle shall comply with Sections 1 through 4 of this Act.

SECTION 6. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations shall comply with Sections 1 through 4 of this Act.

The Committee Amendment No. 1 to **HB 267** is as follows:

Amend printed copy of **HB 267** on page 2, line 4 after "*period*" and before "." by inserting "*if the premium charge is paid prior to the end of the grace period*".

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 70**:

HR 70, A RESOLUTION commending the Council of State Governments and adjourning in honor thereof.

WHEREAS, the Council of State Governments was founded in 1925 as a joint agency of all state governments, established, supported and directed by them; and

WHEREAS, the Council of State Governments strengthens state governments by improving administrative and managerial capability and performance; and

WHEREAS, the Council of State Governments promotes intergovernmental cooperation; and

WHEREAS, the Council of State Governments collects, processes, generates and disseminates information needed by all 50 states; and

WHEREAS, the Council of State Governments assists state governments in solving specific problems of policy formulation and operations; and

WHEREAS, the Council of State Governments serves as a catalyst and representative on issues and opportunities affecting the states; and

WHEREAS, the Council of State Governments offers staff services of research, surveys, and data search to legislators, state officials and the private sector; and

WHEREAS, the Council of State Governments maintains a collection of state government department and agency reports, as well as publishing numerous informational publications and reports; and

WHEREAS, this honorable body considers it a privilege to have this outstanding organization housed within the boundaries of the Commonwealth of Kentucky; and

WHEREAS, the economic, social and cultural impact of the Council of State Governments housing its national headquarters in Lexington, Kentucky is immeasurable; and

WHEREAS, in 1984, after an attempt to lure this prestigious organization from the Bluegrass State, the executive committee of the Council of State Governments voted to retain the national headquarters in Lexington;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the General Assembly of the Commonwealth of Kentucky hereby commends the exemplary services and information provided by the Council of State Governments.

Section 2. That this august body is honored today to have a delegation of the leadership of the Council of State Governments: Senator W. Paul White, from Massachusetts, who is Chairman-Elect of the Council; Senator Ross Doyen, from Kansas, Chair of the CSG Budget Committee and past Chair of NCSL; Representative Jane Barnes, from Illinois, Chair of the Midwestern Legislative Conference; Dan Sprague, newly appointed Executive Director of the Council; and Darrell Perry, Director of Administration, and these individuals are hereby accorded the privilege of the floor.

Section 3. That when this honorable body adjourns this day, Thursday, January 25, 1990, it does so in honor of the Council of State Governments.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Mr. Dan Sprague, Executive Director of the Council of State Governments, Iron Works Pike, P.O. Box 11910, Lexington, Kentucky 40578.

HR 70 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 70**. Agreed.

The following members requested that their names be added as co-sponsors to **HR 70**: Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gray, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Rapier, Reinhardt, Richards, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman.

Representative Scorsone moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Scorsone moved the adoption of the following **HR 55**:

HR 55, A RESOLUTION recognizing the Historic Pleasant Green Missionary Baptist Church Bicentennial Anniversary.

WHEREAS, Africans who were uprooted from their motherland and brought to this country as slaves continued the art of oral history telling;

WHEREAS, in September, 1781, according to legend and written reports, a slave preacher named Peter Duerett began a long and arduous journey with his owner, a Baptist minister named Lewis Craig and the Traveling Church of Upper Spotsylvania County near Fredericksburg, Virginia; and

WHEREAS, in 1783, after having crossed Virginia, Tennessee and the Cumberland Gap, the group settled southwest of Lexington where an old buffalo trail crossed the South Elkhorn Creek; and

WHEREAS, Peter Duerett later became a slave of John Maxwell, a pioneer citizen of Lexington; and

WHEREAS, in 1790, the slave preacher, aided by his owner, erected a log cabin on the Maxwell farm where he lived and gathered his first converts, and which, if still standing, would be at the corner of Limestone Street and Euclid Avenue; and

WHEREAS, in 1818, the present church site was purchased from Dr. Frederick Ridgely, the first man to teach medicine in the West, and paid for in 1822, with the deed being conveyed to the trustees of the African Baptist Church; and

WHEREAS, the site is part of a 400 acre land grant obtained in 1776 by Colonel Robert Patterson, a founder of Lexington, with the bordering streets being named after the Colonel and John Maxwell; and

WHEREAS, in 1820, the number of converts had grown to over 300, and a split occurred with a remnant remaining loyal to Peter Duerett, affectionately called, "Bro. Captain" by his followers; and

WHEREAS, Peter Duerett organized the first church west of the Allegheny Mountains for people of color and secured for them a permanent place for worship; and

WHEREAS, in 1823, this dreamer and inheritor of a promise died as pastor of this his first and only church; and

WHEREAS,in 1829, the name was changed from African Baptist Church to Pleasant Green Baptist Church; and

WHEREAS, in 1855, George W. Dupee, a slave preacher, was scheduled to be sold at auction, and Pleasant Green Baptist Church, aided by the deacons in the white church, purchased his freedom for eight hundred fifty dollars; and

WHEREAS, in 1869, the Evergreen Baptist Church of Lexington was organized from a mission of this church; and

WHEREAS, during the same year, Pleasant Green Baptist Church housed the first government-funded school for the education of Afro-Americans; and

WHEREAS, since 1790, the church has called eighteen pastors whose leadership spans the time of slavery and unspeakable indignities stirred by ignorance and prejudice, of wars at home and abroad, of jubilation which followed Emancipation, of non-violent protests and marches of the Civil Rights Movement and, of uncertain peace; and

WHEREAS, in 1990, the congregation continues to flourish under the leadership of its eighteenth pastor, Dr. Thomas H. Peoples, Jr., a son of the church, whose preaching and teaching leads men, women and children to a saving knowledge of Christ; and

WHEREAS, members of the early church and their descendants have made significant contributions to the Commonwealth as preachers, missionaries, educators, stonemasons, cooks, blacksmiths, maids, butlers, doctors, dentists, homemakers, skilled and unskilled laborers, farmers, scientists, lawyers, nurses, engineers, factory workers, administrators, business men and women, athletes, musicians, entertainers, artists, politicians, technicians, government workers and elected officials; and

WHEREAS, the church is committed to continuing the Great Commission she has been given; and

WHEREAS, the church has told and recorded her history and the Kentucky Historical Society has placed a marker on her land;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby designate this resolution to be the Historic Pleasant Green Missionary Baptist Church Bicentennial Anniversary Recognition Resolution of 1990.

Section 2. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky salutes the work and ministry of the Historic Pleasant Green Missionary Baptist Church, formerly the African Baptist Church, on her 200th anniversary.

Section 3. That when the House of Representatives adjourns this day, Tuesday, January 23, 1990, it does so in honor of the Historic Pleasant Green Missionary Baptist Church Bicentennial Anniversary.

Section 4. That the Clerk of the House of Representatives is directed to send a copy of this resolution to Dr. Thomas H. Peoples, Jr., Pleasant Green Baptist Church, 540 West Maxwell Street, Lexington, Kentucky 40508.

HR 55 was adopted by voice vote.

Representative Callahan moved the adoption of the following **HR 58**:

HR 58, A RESOLUTION honoring former City of Dayton Mayor, Gilbert H. Lynn.

WHEREAS, Gilbert H. Lynn has provided outstanding leadership to the City of Dayton for 16 years; and

WHEREAS, Gilbert H. Lynn has contributed to the initiation of a great number of municipal projects which have greatly enhanced the quality of life in Dayton; and

WHEREAS, Gilbert H. Lynn has worked extensively and successfully with all branches of Kentucky government in order to expand the overall prosperity of Dayton; and

WHEREAS, Gilbert H. Lynn has achieved unprecedented success for Dayton in the areas of citizen employment, economic development and environmental protection and management; and

WHEREAS, Gilbert H. Lynn has steered the governing bodies of Dayton down a true path of financial stability, economic growth and community integrity; and

WHEREAS, Gilbert H. Lynn voluntarily continues to be an integral and involved component in the present and future endeavors of Dayton; and

WHEREAS, Gilbert H. Lynn's personal commitments and significant contributions through his many years of service have established a bright future for the City of Dayton as well as much of the northern region of our beloved Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors and recognizes former City of Dayton Mayor, Gilbert H. Lynn.

Section 2. That the House of Representatives extends its praise and congratulations to Gilbert H. Lynn for his many personal contributions and impressive accomplishments on behalf of others.

Section 3. That the sponsor of this resolution, Representative Jim Callahan, shall deliver a copy of this resolution to Gilbert H. Lynn.

HR 58 was adopted by voice vote.

Representative Callahan moved the adoption of the following **HR 61**:

HR 61, A RESOLUTION honoring Elmer Schaefer.

WHEREAS, Elmer Schaefer, former Assistant Director of the Northern Kentucky Planning Commission, provided outstanding leadership in this capacity for a number of years; and

WHEREAS, Elmer Schaefer's efforts, while at the helm in this position and that of Director of Finance for the City of Newport, Kentucky, has established a sound and solid foundation for the launch and development of innovative ideas of regional planning; and

WHEREAS, Elmer Schaefer's expertise that he demonstrated in the fields of state municipal finance has proven to be invaluable assets to both levels of government; and

WHEREAS, Elmer Schaefer's astute leadership in the spearheading of meaningful projects for the betterment of society has contributed a great deal to the enhancement of the quality of life in Northern Kentucky; and

WHEREAS, Elmer Schaefer's impressive achievements and accurate initiatives in shaping the future of Northern Kentucky have established a solid link to the future prosperity for this region of the Commonwealth; and

WHEREAS, Elmer Schaefer, despite retiring, continues as an inspiration to his peers, associates, family, friends and all those involved in planning today's ventures while seeking tomorrow's dreams;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends and congratulates Elmer Schaefer for his impressive accomplishments on behalf of Northern Kentucky.

Section 2. That the House of Representatives extends hearty appreciation to Elmer Schaefer for his noble expertise in the field of finance.

Section 3. That the sponsor of this resolution, Representative Jim Callahan, shall deliver a copy of this resolution to Elmer Schaefer.

HR 61 was adopted by voice vote.

Representative Ballard moved the adoption of the following Legislative Citation No. 17. Agreed.

The House of Representatives of the Commonwealth hereby commends students of the Advanced Placement Political Science Class, Madisonville-North Hopkins High School.

This body salutes the members of the Advanced Placement Political Science class at Madisonville—North Hopkins High School. You have demonstrated outstanding academic abilities and valuable knowledge of our political system. The students of this class are recognized as the sharpest seniors at Madisonville-North Hopkins High School.

This prestigious body joins Representative Eddie Ballard in saluting your academic achievements.

Representative Ballard individually honored the following students of the Advanced Placement Political Science class at Madisonville—North Hopkins High School:

Greg Bowles, Sam Carneal, Carrie Cotton, Shauna Davis, Aleta Devine, David Griffey, Brian Higgs, Rusty Jennings, Jimmy Knight, Kelli McCallum, Amy Pickard, Tia Silverthorne, Thomas Sneed, Chris Soria, Phillip Talley, and Amy Whitmer.

Representative Casebier moved the adoption of the following **HR 69**:

HR 69, A RESOLUTION adjourning the House of Representatives in memory and honor of William Alexander Foushee.

With deepest regret, we pay homage and tribute to William Alexander Foushee.

WHEREAS, William Alexander Foushee of Valley Station, Jefferson County, Kentucky, departed this life on Sunday, January 21, 1990; and

WHEREAS, William Alexander Foushee was a retired major with the Louisville Arson Squad, having served more than twenty-five years with the Louisville Fire Department; and

WHEREAS, William Alexander Foushee served as special deputy with the Jefferson County Sheriff's Department; and

WHEREAS, William Alexander Foushee was a member of the Fraternal Order of Police Lodge 25, the Louisville Police Commanding Officers' Club, the International Association of Arson Investigators, the American Society of Security, the Mended Hearts Association and the Old Masonic Home Lodge 940; and

WHEREAS, William Alexander Foushee was a loving husband to his wife, Geraldine Stevenson Foushee and dedicated father to his two daughters, Judith A. Rhodes and Sharon M. Foushee, and four grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its profound grief over the loss of William Alexander Foushee and extends its most heartfelt sympathy to his family.

Section 2. That when the House of Representatives adjourns this day, Thursday, January 25, 1990, it does so in honor and in memory of William Alexander Foushee.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Mrs. Geraldine Stevenson Foushee, 9100 Wanlou Drive, Louisville, Kentucky 40272.

HR 69 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 71, by Representative Stumbo: A RESOLUTION honoring students for their interest in government.

Representative Stumbo moved the adoption of the following **HR 71**:

HR 71, A RESOLUTION honoring students for their interest in government.

WHEREAS, this honorable body is proud to acknowledge students who show interest in legislation; and

WHEREAS, a student delegation visited the Capitol today expressing their support of House Bill 60; and

WHEREAS, these students are to be commended for their participation and interest in Higher Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives applauds these students for their hard work and dedication.

Section 2. That when the House of Representatives adjourns this day, Thursday, January 25, 1990, it does so in honor of these concerned students.

Section 3. That the Clerk of the House is directed to send copies of this resolution to Mary Jo Scheurich, University of Kentucky, 120 Student Center, Lexington, Kentucky 40506 0030 for distribution to Mary Jo Scheurich, Jason Vandiver, Ashley Boyd, Allen Putman, Sarah Coursey, Jimmy Richardson, Rob Lohman, Crinda Kidd, Mike Johnson, Sean Lohman, Christy Warner, Christa Collins, Sheryl Beasley, John Elder, and Craig Johnson.

HR 71 was adopted by voice vote.

Representative Cyrus moved that the rules suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 66**:

HR 66, A RESOLUTION adjourning the House of Representatives in honor of the United Mine Workers of America.

WHEREAS, the United Mine Workers of America has been a labor organization representing coal miners across the coal fields of America; and

WHEREAS, the United Mine Workers of America was formed from the National Trades Assembly and the National Federation of Miners and Mine Laborers; and

WHEREAS, the United Mine Workers of America has fought for the survival of fair and equitable benefits for working men and women throughout America; and

WHEREAS, the United Mine Workers of America has fought for the safety rights of all miners throughout America by pursuing federal and state safety regulations to secure a safe working place for all working miners; and

WHEREAS, the United Mine Workers of America has fought for federal Black Lung and other respiratory benefits for those miners suffering from the hazardous conditions related to the coal industry; and

WHEREAS, the United Mine Workers of America will not forget those brothers and sisters who have given their lives for justice and dignity within the labor movement; and

WHEREAS, the United Mine Workers of America recognizes the sacrifices of those early pioneers of the U.M.W.A. who survived sweat shops, militia, and the threat of suppression to provide a decent livelihood for themselves and their families; and

WHEREAS, Thursday, January 25, 1990, marks the centennial anniversary of service by the United Mine Workers of America;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does recognize that the American worker has established patterns of excellence emulated by working men and women throughout the world.

Section 2. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Thursday, January 25, 1990, it does so in honor of the United Mine Workers of America.

HR 66 was adopted by voice vote.

Representative Arnold moved that **HB 325** be withdrawn. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 38, Representative Ackerson; **HB 70**, Representative Lile; **HB 78**, Representative Nett; **HB 111**, Representative Lile; **HB 256**, Representative Lile; **HB 298**, Representative Lile; **HB 396**, Representative Bruce; **HB 399**, Representative Castleman; **HB 404**, Representatives Blevins, Butler, Geveden; **HJR 8**, Representative Strong; **HCR 22**, Representative Yates.

The following member requested to have his name withdrawn as co-sponsor of a Bill: **HB 184**, Representative Hatcher.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 7 to **HB 113**, by Representative Sheehan:

Amend printed copy of **HB 113** on page 7, between lines 14 and 15, by inserting the following new subsection:

"***(4) At the time a declaration is made, the declarant shall file a petition to make a valid Living Will Declaration in the district court of the county of the declarant's residence. Upon receipt of the petition, the court shall hold an ex parte proceeding to examine the declarant under oath to determine if the declarant is eighteen (18) years of age or over, of sound mind, under no constraint or undue influence and that the declaration has been witnessed as required by subsection (3) of this section. The court may hold a hearing, as provided in KRS 202A.051, to determine if the declarant is of sound mind. If after examining the declarant under oath, it appears to the court that the declarant is competent to make a declaration, the court shall issue an order approving the declarant to make a Living Will Declaration. No order shall be issued if the declarant is not found to be competent. A decision of the court finding a declarant to be of unsound mind may be appealed as provided in the Rules of Civil Procedure.***"

Floor Amendment No. 2 to **HB 28**, by Representative Farrow:

Amend printed copy of **HB 28** on page 8, line 16, to delete "***ten (10)***" and insert "***twenty (20)***" in lieu thereof.

Floor Amendment No. 6 to **HB 113**, by Representative Callahan:

Amend printed copy of **HB 113** on page 3, line 26, by inserting after the word "treatment", the following phrase:

"***provided that if an adult makes a written declaration while unmarried, the declaration shall become void upon the marriage of the person***".

Floor Amendment No. 1 to **HB 267**, by Representative Morris:

Amend printed copy of **HB 267** on page 2, line 15 by deleting "***tenth scheduled work***" and insert in lieu thereof "***thirtieth calendar***".

The Clerk announced the following meetings:

The Committee on Appropriations and Revenue will meet January 31, 1990 at 9:00 a.m.

The Budget Review Subcommittee on Corrections will meet January 26, 1990 at 10:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, January 26, 1990.

On the roll call the vote was yeas 85—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 6—Blevins, Bronger, Gray, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, JANUARY 26, 1990

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Charles Ellestead, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Priddy.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 25, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 19**, **SB 34**, **SB 108**, **SB 117**, **SB 125**, **SB 135**, **SB 176**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 65**.

Appropriations and Revenue: **HB 412**.

Banking and Insurance: **HB 410**, **HB 411**, **HB 413**, **HB 422**.

Counties and Special Districts: **HB 418**.

Economic Development and Tourism: **HB 417**, **HB 419**.

Education: **HB 415**, **HB 421**, **HB 424**.

Health and Welfare: **HB 403**.

Judiciary: **HB 406**, **HB 407**, **HB 408**.

Natural Resources and Environmental Protection: **HB 416**, **HB 420**, **HJR 68**, **SB 141**.

State Government: **HB 409**.

Transportation: **HB 404**, **HB 405**, **HB 414**, **HB 423**.

Report of Committees

The Committee on Rules reported **HB 113** has been posted for passage in Orders of the Day, January 31, 1990.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary: **HB 245**, **HB 246**, **HB 247**, **HB 271**, **HB 318**, **HB 319**, **HB 332**.

Calendar

HB 60, **HB 136**, **HB 138**, **HB 148**, **HB 252**, **HB 276**, **HB 315** and **HB 328** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 264, **HB 267** and **HB 295** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 28, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Committee Amendment No. 1 to **HB 28**. Agreed.

Representative Johnson moved the adoption of Committee Amendment No. 2 to **HB 28**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 28**.

On the roll call the vote was yeas 41—Ackerson, Ark, Arnold, Ballard, Barrows, Bronger, Brown, Butler, Callahan, Casebier, L. Clark, Clarke, Cline, Cyrus, Deskins, Freibert, Geveden, Gray, Gregory, K. Harper, Heleringer, Johnson, T. Jones, Kerr, Lear, LeMaster, Long, Maggard, McElroy, Moberly, Mullinix, Pritchett, Reinhardt, Richards, B. Richardson, Scorsone, Todd, Walker, Ward, Worthington, Yates. Nays 31—Allen, Altman, Bentley, Blevins, Bruce, Burch, Castleman, Curd, Curtsinger, Donnermeyer, Farrow, Ford, Hourigan, A. Jones, Keith, Lewis, Little, Mason, Napier, Nett, Noland, Northup, Preston, Ridley, Riner, Siler, Strong, Stumbo, Turner, White, Zimmerman.

Floor Amendment No. 1 to **HB 28** was adopted.

Representative Johnson moved the adoption of Floor Amendment No. 2 to **HB 28**. Agreed.

Representative Johnson moved that **HB 28**, as amended, be passed.

Representative Walker moved that **HB 28** be recommitted to the Committee on Judiciary.

On the roll call the vote was yeas 47—Adkins, Altman, Ark, Arnold, Blandford, Bronger, Brown, Butler, L. Clark, Clarke, Cline, Curtsinger, Cyrus, Deskins, Donnermeyer, Freibert, Geveden, K. Harper, Jackson, Jensen, T. Jones, Keith, Lear, Lefevers, LeMaster, Lewis, Lile, Lyne, Mack, Maggard, McElroy, Moberly, Mullinix, Noe, Noland, Pritchett, Richards, Scorsone, Sheehan, Siler, Stokes, Strong, Walker, Ward, White, Worthington, Zimmerman. Nays 46—Ackerson, Allen, Ballard, Bentley, Blevins, Bruce, Burch, Callahan, Casebier, Castleman, P. Clark, Crupper, Curd, Farrow, Ford, Gedling, Gray, Gregory, Hancock, J. Harper, Heleringer, Johnson, A. Jones, Kerr, Little, Long, Mason, McBee, Morris, Napier, Nelson, Nett, Northup, O'Brien, Preston, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, B. Smith, Stumbo, Todd, Turner, Yates.

HB 28, as amended, was recommitted to the Committee on Judiciary.

HB 68 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 68** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 26, 1990 roll call on **HB 68** - Appendix.)

HB 68 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 68** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 84 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 84** be passed.

Representative Donnermeyer moved that **HB 84** be laid on the Clerk's desk. Agreed.

HB 48 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved that **HB 48** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See January 26, 1990 roll call on **HB 48** - Appendix.)

HB 48 was passed and the title agreed to.

Representative J. Harper moved that the vote by which **HB 48** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 179** be recommitted to the Committee on Judiciary. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Farrow moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Farrow moved the adoption of the following Legislative Citation No. 22. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and recognizes 3M Tape Manufacturing Plant upon the occasion of reaching, for the first time, $1 billion in annual export sales. The Cynthiana Plant of 3M has made tremendous contributions to the Commonwealth of Kentucky and to the United States. 3M employs 500 people in the Cynthiana plant and has 418 suppliers in Kentucky.

The Kentucky House of Representatives joins Representative Mark Farrow in saluting and applauding the Cynthiana 3M Manufacturing Plant for their many contributions.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HB 91**, **HB 252** and **HB 328** have been posted for passage in Orders of the Day, January 31, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, January 31, 1990: **HB 295**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 75**, **HB 138**.

The Committee on Rules reported **HB 60**, **HB 101** and **HB 236** have been posted for passage in Orders of the Day, February 1, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, February 1, 1990: **HB 62**, **HB 264**, **HB 267**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **HB 253**.

Transportation: **HB 299**, **HB 301**, **HB 350**, **HB 359**.

Elections and Constitutional Amendments: **HB 14**.

State Government: **HB 229**.

Representative Reinhardt moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Reinhardt moved the adoption of the following Legislative Citation No. 20. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mr. Fred W. Erschell, Jr. for your distinguished services to Fort Thomas for a period of twenty-four years. As city councilman for twelve years and mayor for twelve years, your fine record has been most impressive. May memories of your successful accomplishments brighten your retirement years with heartfelt appreciation.

This prestigious body joins Representative Jon David Reinhardt, your wife Beverly and your two lovely daughters in saluting you for your dedication and contributions to the community of Fort Thomas. We extend to you our very best wishes for a retirement filled with happiness, health and many friends.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 63**:

HR 63, A RESOLUTION honoring the Trinity High School Football Team.

WHEREAS, the 1989 Trinity High School Football Team exemplified excellence in athletic competition with a perfect season record of 14 wins and no losses; and

WHEREAS, Class 4-A is the most difficult division to compete in high school football; and

WHEREAS, it is a prestigious honor to compete in the championship series of Class 4-A football; and

WHEREAS, the Trinity High School Football Team captured the 1989 Class 4-A State Football Championship on December 2, 1989, at Cardinal Stadium in Louisville, Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House honors and commends the Trinity High School Class 4-A 1989 State Football Champions and Head Football Coach Dennis Lampley.

Section 2. That the House wishes Trinity High School Class 4-A Champions continued success in future endeavors.

Section 3. That the Clerk of the House is directed to send a copy of this resolution to Coach Dennis Lampley, Trinity High School, 4011 Shelbyville Road, Louisville, Kentucky 40207.

HR 63 was adopted by voice vote.

Representative Hancock moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 73, by Representative Hancock: A RESOLUTION adjourning the House of Representatives in memory and honor of David Lyelle Balch of Frankfort, Kentucky.

Representative Hancock moved the adoption of the following **HR 73**:

HR 73, A RESOLUTION adjourning the House of Representatives in memory and honor of David Lyelle Balch of Frankfort, Kentucky.

We pause in silent reverence with bowed heads and heavy hearts to bid a final farewell to our friend David Balch.

WHEREAS, we join the family and friends of David Balch to mourn his recent passing and to pay homage and tribute to an outstanding Kentuckian; and

WHEREAS, one of the leading citizens of the capital city for over fifty years, David Balch was a gifted and benevolent individual who devoted his life to working with educational, civic, and religious organizations; and

WHEREAS, David Balch was a member of the Frankfort city school board for sixteen years and served as its chairman from 1973 to 1979; and

WHEREAS, David Balch was an exemplary role model for the hundreds of young lives he touched as organizer and coach of Pop Warner football, as a Little League baseball coach, and as a Cub Scout Den Master; and

WHEREAS, David Balch was perhaps most noted throughout the Frankfort/Franklin County community for his selfless service to the YMCA; and

WHEREAS, a member of the board of directors of the YMCA, David Balch received the Youth Award in 1971 and was named "Man of the Year" in 1985 and 1989; and

WHEREAS, David Balch was a charter member of the Frankfort Jaycees, serving as president in 1953; and

WHEREAS, David Balch diligently served as a former president of the Capital Chapter of the Kentucky Society of Professional Engineers; and

WHEREAS, a devoutly religious man, David Balch served as Sunday school superintendent, vestryman, and lay reader for the Episcopal Church of the Ascension; and

WHEREAS, a retired electrical engineer, David Balch worshipped his beloved wife Betty and was a loving father to sons David and Robert, daughters Nancy and Mary, and a loving grandfather of five; and

WHEREAS, David Balch's passing has created a void that can never be filled, and he will forever be remembered as a compassionate humanitarian;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does extend to our longtime friend Betty, and to David, Robert, Nancy and Mary, our deep sense of bereavement upon the death of David Balch.

Section 2. That the members of this august body, both individually and collectively, do commend the family and friends of David Balch to the solace of the Almighty to assuage the grief and to ease the pain of the dark hours ahead.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Friday, January 26, 1990, it does so in memory and honor of David Lyelle Balch.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Mrs. David Balch, 122 West State Street, Frankfort, Kentucky.

HR 73 was adopted by voice vote.

Introduction of Bills and Resolutions

HB 425, by Representative Mason: AN ACT relating to acquired immunodeficiency syndrome.

HB 426, by Representative B. Smith: AN ACT relating to banking.

HB 427, by Representative Maggard: AN ACT relating to revenue and taxation.

HB 428, by Representatives B. Smith and Turner: AN ACT relating to water resources development.

HB 429, by Representative Lear: AN ACT relating to property taxation and the administration thereof.

HB 430, by Representative Lear: AN ACT relating to property valuation administrators.

HB 431, by Representatives Lear, Scorsone and LeMaster: AN ACT relating to urban-county government.

HB 432, by Representative Hancock: AN ACT relating to mobile homes and recreational vehicles.

HB 433, by Representative Hancock: AN ACT relating to elevators.

HB 434, by Representative Crupper: AN ACT relating to cosmetologists.

HR 72, by Representative Mack: A RESOLUTION commending the Kentucky Revenue Cabinet for its outstanding administration of the "Kentucky Tax Amnesty Act."

HR 74, by Representative Ackerson: A RESOLUTION honoring David L. Beckman, Sr.

Representative Ackerson moved the adoption of the following **HR 74**:

HR 74, A RESOLUTION honoring David L. Beckman, Sr.

WHEREAS, David L. Beckman, Sr., led the long crusade to create the City of Hurstbourne; and

WHEREAS, David L. Beckman, Sr., succeeded and became the first mayor of Hurstbourne on August 12, 1982; and

WHEREAS, David L. Beckman, Sr., established the city of Hurstbourne on sound financial footing; and

WHEREAS, David L. Beckman, Sr., has earned the respect of his fellow citizens; and

WHEREAS, during his term in office, David L. Beckman, Sr., saw the completion of many improvements to the city of Hurstbourne; and

WHEREAS, David L. Beckman, Sr.'s, last term of office ended December 1989, and he is occupied with his successful profession as a labor relations arbitrator; and

WHEREAS, David L. Beckman, Sr., is the proud father of two grown sons and devoted husband of Geraldine Beckman;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House hails David L. Beckman, Sr., for his contribution and efforts on behalf of the goals of local government.

Section 2. That the Clerk of the House transmit a copy of this resolution to David L. Beckman, Sr., of the City of Hurstbourne.

HR 74 was adopted by voice vote.

Introduction of Bills and Resolutions (Continued)

HCR 75, by Representative L. Clark: A CONCURRENT RESOLUTION establishing a commission to study firefighting services in Kentucky.

HCR 76, by Representative Nett: A CONCURRENT RESOLUTION urging restaurants to find alternatives to non-biodegradable packaging and directing the Legislative Research Commission to study the use of non-biodegradable packaging in restaurants.

Motions, Petitions and Communications (Continued)

Representative J. Harper moved that **HB 42**, **HB 181** and **HJR 5** be withdrawn. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 8 to **HB 113**, by Representative Walker:

Amend printed copy of **HB 113** on page 7, between lines 14 and 15, by inserting the following new subsection:

"***(4) A Living Will Declaration made pursuant to this Act shall expire one (1) year from the date it is signed in the presence of a notary public, and may be renewed by making a new declaration.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 236**, by Representative T. Jones:

Amend printed copy of HCS to **HB 236** on page 2, line 23, by adding after the "."; "***They may be reappointed no earlier than twelve (12) months following the end of their last service.***"; and

on page 14, line 12, by adding after the "."; "***They may be reappointed no earlier than twelve (12) months following the end of their last service.***"; and

on page 20, line 20, by adding after the "."; "***They may be reappointed no earlier than twelve (12) months following the end of their last service.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 107**, by Representative Blevins:

Amend printed copy of HCS to **HB 107** on page 2, line 24 by deleting the "," after the word "***board***";

And on page 2, by deleting line 25 in its entirety;

And on page 2, line 3 by inserting after the phrase "***scholarship fund***" the following "***and may recover reasonable costs for administering the fund***"

And on page 2, line 26 by deleting the word "***facility***".

And on page 3, line 2 by deleting the following words "***nursing schools, both public and private, for the***".

And on page 3, line 3 by deleting the following words, "***admission of approved students***" and inserting in lieu thereof the following words "***approved applicants***".

And on page 4, by deleting line 12 in its entirety.

And on page 4, line 13 by deleting the words "***shall be signed by the board president.***".

The Clerk announced the following meetings:

The Appropriations and Revenue Subcommittee on Human Resources will meet January 29, 1990 at 9:00 a.m.

The Committee on Appropriations and Revenue will meet January 31, 1990 at 10:00 a.m.

The Budget Review Subcommittee on Education will meet at 12 noon, January 31, 1990.

The Budget Review Subcommittee on General Government will meet January 30, 1990 at 1:00 p.m.

The Clerk announced that the meetings of the Committee on Counties and Special Districts and the Committee on Labor and Industry on January 31, 1990 have been cancelled.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Wednesday, January 31, 1990.

On the roll call the vote was yeas 82—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Hancock, J. Harper, K. Harper, Hatcher, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Zimmerman. Nays 5—Bronger, Gray, Gregory, Heleringer, Lile.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 31, 1990

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Steve Smith, Carlisle Christian Church, Carlisle.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 26, 1990 be dispensed with and the same approved. Agreed.

Representative Sheehan moved that the rules be suspended to grant floor privileges to former Senator Gus Sheehan and to introduce and act upon a Resolution. Agreed.

Senate Message

Announcing passage of **SB 78**, **SB 96**, **HB 93**, **HB 147**, **HB 150** and **HB 151**.

HR 78, by Representative Sheehan: A RESOLUTION adjourning the House of Representatives in honor of August "Gus" Sheehan, Jr.

Representative Sheehan moved the adoption of the following **HR 78**:

HR 78, A RESOLUTION adjourning the House of Representatives in honor of August "Gus" Sheehan, Jr.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of those legislators who have served in prior sessions of the General Assembly and who have enriched the lives of so many people; and

WHEREAS, August "Gus" Sheehan was born April 28, 1917; and

WHEREAS, August "Gus" Sheehan, Jr., has devoted many years of dedicated service to the citizens of this great Commonwealth by serving in the House of Representatives from 1950 through 1966 and in the Senate from 1972 through 1986; and

WHEREAS, August "Gus" Sheehan, Jr., graduated from Chase Law School and served as Commonwealth's Attorney and Kenton County Trial Commissioner; and

WHEREAS, August "Gus" Sheehan, Jr., is recognized for his integrity, honesty, and generous and courteous manner, rare qualities that define so few; and

WHEREAS, August "Gus" Sheehan has always displayed the characteristics of a true Kentucky gentleman;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body do hereby express their appreciation and gratitude to August "Gus" Sheehan, Jr., for the countless hours of dedicated service he has contributed to the citizens of Kentucky.

Section 2. That when the House of Representatives adjourns this day, Wednesday, January 31, 1990, it does so in honor of August "Gus" Sheehan, Jr.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Honorable August "Gus" Sheehan, Jr., 612 Altamont Road, Covington, Kentucky 41016.

HR 78 was adopted by voice vote.

Representative Sheehan moved that a call of the roll be taken to show co-sponsors of **HR 78**.

On the roll call the vote was yeas 93—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson,

A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman.

Introductions of Bills and Resolutions

HB 435, by Representatives Geveden, T. Jones, Noe, Strong, Gedling, Johnson, Riner, B. Richardson, Gregory, Walker, Nelson, Castleman, Curd, Long, J. Harper and O'Brien: AN ACT relating to motor vehicle operators.

HB 436, by Representatives LeMaster, Gregory, Geveden, L. Clark, K. Harper, B. Smith, O'Brien, Pritchett, Lewis, Hourigan, Cyrus, Adkins, Barrows, Noe, Rapier, McBee, Donnermeyer, Stumbo, Richards, Deskins and Bronger: AN ACT relating to taxation.

HB 437, by Representative Donnermeyer: AN ACT relating to collective bargaining for police.

HB 438, by Representative Donnermeyer: AN ACT relating to plumbers.

HB 439, by Representative Donnermeyer: AN ACT relating to law enforcement and professional fire fighters foundation program funds, and declaring an emergency.

HB 440, by Representatives Riner and Gray: AN ACT relating to holidays.

HB 441, by Representatives Gedling and Crupper: AN ACT relating to a burley tobacco assessment.

HB 442, by Representatives Gedling and Crupper: AN ACT relating to the Pest Control Advisory Board.

HJR 77, by Representatives Noe, Jensen, Ford, Lefevers and Keith: A JOINT RESOLUTION relating to negotiations between the University of Kentucky and Sue Bennett College.

HR 79, by Representatives Gray and Hatcher: A RESOLUTION adjourning the House of Representatives in memory and in honor of Lois Vivian Walker Morris.

HR 80, by Representative Stumbo: A RESOLUTION honoring the distinguished Luther Johnson on the occasion of his 83rd birthday, February 4, 1990.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 427, HB 429, HB 430.**

Banking and Insurance: **SB 19, HB 426.**

Business Organizations and Professions: **HB 434, HCR 76.**

Cities: **HB 431.**

Economic Development and Tourism: **HB 428.**

Elections and Constitutional Amendments: **SB 117.**

Health and Welfare: **HB 425, HB 432.**

Judiciary: **SB 125.**

Labor and Industry: **HB 433.**

State Government: **SB 108, SB 135, SB 176, HCR 75.**

Transportation: **SB 34.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 365.**

Health and Welfare: **HB 99, HB 341.**

Economic Development and Tourism: **HB 386.**

Agriculture and Small Business: **HB 178, HB 335, HB 369, HB 389, HB 400.**

State Government: **HB 39, HB 47, HB 83, HB 196, HB 203, HB 211, HB 215, HB 270, HB 360, HB 361.**

The Clerk announced the following Bill and Resolution have been withdrawn from Committee consideration:

Health and Welfare: **HB 117.**

State Government: **HCR 1.**

Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 13, HB 16** and **HB 134** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 13, AN ACT proposing to amend Section 36 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

The General Assembly shall meet on the first Tuesday after the first Monday in January in odd-numbered years for a period not to exceed ten legislative days for the purposes of electing legislative leaders, adopting rules of procedure and the organizing of committees. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session, and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere. ***The President Pro Tempore of the Senate and the Speaker of the House of Representatives may jointly convene the General Assembly for an extraordinary session upon receipt of a written petition for such purposes signed by two-thirds of the members of the General Assembly. When they shall convene the General Assembly for an extraordinary session, it shall be by joint proclamation, stating the subjects to be considered, and no others shall be considered.***

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Kentucky Constitution and under KRS 118.415.

HB 16, AN ACT proposing to amend Section 28 of the Constitution of Kentucky relative to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 28 of the Constitution of Kentucky be amended to read as follows:

No person or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted. ***The General Assembly shall have the authority to establish by general law a process permitting it, or an agency or committee it designates, to review, approve, or reject any administrative regulation of an officer or agency of the executive department during or between regular sessions of the General Assembly.***

Section 2. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 134, AN ACT relating to secret ballots.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

In every election, each voter shall have an absolute right to a secret ballot. No voter shall be required by any court or any public official to disclose his vote. The penalty for violation of this section shall be forfeiture of office.

The Committee Amendment No. 1 to **HB 134** is as follows:

Amend printed copy of **HB 134** on page 1, line 5, after the word "***any***" by inserting the word "***individual,***"; and

On line 5, by inserting a comma after the word "***court***"; and

On line 5, after the period, by deleting the word "***The***"; and

By deleting lines 6 and 7 in their entirety.

The Committee on Appropriations and Revenue reported **HB 65**, **HB 314** with Committee Amendment attached thereto, **HB 323** and **HB 338** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 65, AN ACT relating to acquisition of natural areas and providing funding therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby recognizes the benefit to the citizens of Kentucky of the acquisition and maintenance of certain lands for use as state parks, recreation areas, state forests, nature preserves, wildlife management areas and wetlands. It is, therefore, in the public interest to promote and fund the conservation of such areas.

SECTION 2. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a Kentucky Heritage Land Conservation Fund Board, referred to hereafter as "the board", which shall administer the Kentucky heritage land conservation fund established in this Act and shall review and approve all grants payable from the fund. The board shall consist of the commissioner of the Department of Agriculture, the commissioner of the Department of Fish and Wildlife Resources, the director of the Kentucky Nature Preserves Commission, the secretary of the Natural Resources and Environmental Protection Cabinet and the secretary of the Tourism Cabinet or their appointees, and two (2) members from the Kentucky General Assembly representing the House and Senate and named by the Legislative Research Commission. The board shall receive staff support from the Department of Fish and Wildlife Resources. The Capital Construction Committee shall maintain legislative oversight authority in the approval of all acquisitions provided for under this Act.

(2) The board, in conjunction with the Department of Fish and Wildlife Resources, shall promulgate such administrative regulations as are deemed necessary for application for funds from state agencies, review of proposed projects and approval of grants. Grants shall be made in amounts, for purposes, and to such state agencies as meet the priorities for acquisition which are:

(a) Natural areas that possess unique features such as habitat for rare and endangered species;

(b) Areas important to migratory birds;

(c) Areas that perform important natural functions that are subject to alteration or loss; or

(d) Areas to be preserved in their natural state for public use, outdoor recreation and education.

The board shall develop acquisition guidelines based on these priorities and property costs seeking to maximize the greatest public benefit by taking advantage of those priority areas available below fair market value and where public or private funds are available on a matching basis. The board shall expend the whole or any part of the principal as needed. This Act shall not allow the use of condemnation powers and shall only allow acquisition of land from willing sellers.

SECTION 3. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Wetlands" means land that has a predominance of hydric soils and is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

(2) "Hydric soils" means soils that, in their undrained condition, are saturated, flooded, or ponded long enough during the growing season to develop an anerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(3) "Hydrophytic vegetation" means a plant growing in water or a substrate that is at least periodically deficient of oxygen during the growing season as a result of excess water content.

SECTION 4. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

State agencies may acquire natural areas and wetlands as defined in this Act as well as acquire access and buffer land deemed necessary by the Kentucky Heritage Land Conservation Fund Board established by this Act. Acquisition of land and expenditure of funds using proceeds provided by this Act shall be approved by the board prior to such action.

SECTION 5. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the state treasury a fund entitled "Kentucky Heritage Land Conservation Fund." The fund shall primarily receive monies from the real estate transfer tax as provided herein but may also receive state appropriations, gifts, grants, federal funds and tax receipts. The fund shall be disbursed by the state Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet.

(2) Monies in the fund shall be used exclusively for the purposes of acquisition and maintenance of lands as defined in this Act with a cap on funds from this Act for maintenance of no more than one percent (1%) of the purchase price per area.

Section 6. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing (other than a will and other than a lease or easement), regardless of where made, executed or delivered whereby any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed is imposed at the rate of ***one dollar ($1.00)*** [~~fifty cents (50)~~] for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect such amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain 5 percent as his fee for collection and remit ***one-half (1/2) of*** the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund***, and one-half (1/2) of the balance to the secretary of revenue, who shall deposit the monies as they are received into the Kentucky Heritage Land Conservation Fund.***

(5) The Revenue Cabinet may prescribe such rules and regulations as it may deem necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to such deed shall, upon conviction, be fined $50 for each offense.

(7) Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual

consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than $100 or to imprisonment for not more than thirty (30) days or to both such fine and imprisonment for each offense.

(8) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To (in the event of a deed of gift or deed with nominal consideration) or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation.

HB 314, AN ACT relating to state leasing of office or other space.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The Governor shall include in the executive branch budget recommendation and in the draft appropriations act for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars ($200,00).

(2) The recommended program for leased space shall include:

(a) A summary description of each specific two hundred thousand dollar ($200,000) lease project recommended for funding during the biennium; and

(b) For each project:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease; and

4. The recommended sources of funds.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The appropriations act for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.

(4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars ($200,000) shall be executed unless the lease has been identified and included in the appropriations act. The appropriations act for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.

(5) A lease with an annual rental cost exceeding two hundred thousand dollars ($200,000) may be authorized even though it is not specifically listed in the biennial budget report and appropriations act or acts, subject to the following conditions and procedures:

(a) A lease is awarded as the result of an emergency in which case the provisions of subsections (3) and (4) of Section 5 and subsection (4) of Section 12 of this Act shall apply; or

(b) 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and

2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and

3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.

(6) (a) Prior to final authorization of a lease pursuant to paragraph (b) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease;

4. The source of funds; and

5. Whether the requirements of paragraph (b) of subsection (5) of this section have been met.

(b) Within thirty (30) days after the report has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.

(c) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:

1. Revise the proposed lease authorization to comply with the objection of the committee; or

2. Cancel the proposed lease authorization; or

3. Determine to proceed with the proposed lease authorization disapproved by the committee.

(d) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (c) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(e) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.

(f) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.820 and the provisions of this Act and shall be subsequently reviewed pursuant to the appropriate subsection of Section 12 of this Act.

Section 2. KRS 48.190 is amended to read as follows:

In addition to the information required by KRS 48.110, the Governor shall include, as a separate part of the branch budget request for the executive branch of government, the recommended program for capital construction and major items of equipment as provided by KRS 45.760 ***and the recommended program for the rental of any space for which the annual rental cost will exceed two hundred thousand dollars ($200,000) as provided by Section 1 of this Act.***

Section 3. KRS 56.800 is amended to read as follows:

The Finance and Administration Cabinet shall be responsible for the lease of all real property rentals required for use by all departments, agencies and administrative bodies of the state government listed in KRS Chapter 12, and no lease of real property shall be binding against the Commonwealth or any [~~such~~] agency unless made and entered into as provided in KRS 56.800 to 56.820 ***and the provisions of this Act.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at subsection (3) of Section 5 of this Act, an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to subsection (3) of Section 5 of this Act as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, he shall acquire the space required by lease as provided by KRS 56.800 to 56.820 and the provisions of this Act.

(2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency by letter. A copy of the letter shall be kept on file.

(3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 56.820 and the other sections of this Act.

(4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.

(5) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall comply with procedures established in this subsection.

(a) The department shall place newspaper advertisements. Each advertisement shall contain general information concerning the agency requirements for the space sought to reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be noted in the advertisement.

(b) If a daily newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in that newspaper.

(c) If there is not a daily newspaper published, and of general circulation, in the county where the space is sought, an advertisement shall be published one (1) time in a weekly newspaper published, and of general circulation, in the county where the space is sought and two (2) times in a daily newspaper not published, but of general circulation, in the county where space is sought.

(d) If neither a daily newspaper nor a weekly newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought, and a copy of the advertisement shall be posted in a conspicuous place in the county courthouse.

(e) If the Commonwealth intends to lease space in any county when the estimated annual rental charge will exceed one hundred thousand dollars ($100,000), the requirements established in paragraphs (a), (b), (c), and (d) of this subsection shall be followed. In addition, advertisements shall be published two (2) times in at least two (2) daily newspapers having broad circulation within the Commonwealth, to be designated by the secretary of the Finance and Administration Cabinet.

(f) When an advertisement is published in a daily newspaper, the advertisement shall appear on any consecutive Monday and Tuesday.

(g) The Department for Facilities Management may use any means available to notify landlords that advertisements have been placed.

(6) To respond to a newspaper advertisement, a property owner, or his representative, shall respond in writing on or before the time and date designated in the advertisement and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the advertisement.

(7) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department.

(8) Within five (5) days of the opening of written responses submitted on or before the time and date designated, the department shall mail general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be mailed to each person.

(9) After the general requirement specifications have been mailed, except as provided in paragraph (a) of subsection (l3) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the advertisement placed pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be advised by letter of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (l2) of this section. A copy of each of these letters shall be kept on file.

(10) After the general requirement specifications have been mailed, the department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or his representative, shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.

(11) After the commissioner has reviewed the completed site evaluation forms, he shall send to each owner of property, or his representative, a letter informing the person of what would have to be done to bring the property up to general and specific requirement specifications. The commissioner's letter shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be enclosed with each letter. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated in the letter. A copy of each letter shall be kept on file.

(12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.

(13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:

(a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;

(b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.

(14) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the advertised requirements and general and specific requirement specifications.

(15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:

(a) Choose the best proposal in the interest of the Commonwealth;

(b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or

(c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the

Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.

(16) (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.

(b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.

(17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.

(18) The department shall send to each person who submitted a written response on or before the time and date designated in the advertisement pursuant to subsection (6) of this section, but who was not awarded the lease, a letter stating the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to subsection (2) of Section 12 of this Act, will review the awarding of a lease, each letter shall state that fact. A copy of each of these letters shall be kept on file.

SECTION 5. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of subsections (4) through (18) of Section 4 of this Act, this section shall govern the leasing of space in a building owned by the federal government, by a political subdivision or municipal corporation of the Commonwealth, or if the space is required as the result of a bona fide emergency.

(2) When the commissioner of the Department for Facilities Management determines that it is in the Commonwealth's best interest for him to negotiate a lease in a building owned by the federal government or by a political subdivision or municipal corporation of the Commonwealth, he shall do so. The commissioner shall state in writing his justifications for the determination, and the writing shall be kept on file.

(3) A bona fide emergency shall be deemed to exist only in cases where the head of an agency already occupying leased premises certifies in writing to the Secretary of the Finance and Administration Cabinet that:

(a) The leased premises have been damaged or destroyed by fire, windstorm or other casualty; or

(b) The leased premises are found to be in violation of regulations of the Kentucky Occupational Safety and Health Review Commission and the violations cannot be remedied within thirty (30) days after the issuance of a citation to the lessor of the premises; or

(c) The leased premises are found to be unsafe or unfit for occupancy due to any condition constituting a violation or infraction of fire or health laws and regulations and cannot be made safe within a reasonable time; or

(d) 1. The necessity for leased premises arises from the enactment or adoption of federal legislation or regulations or state legislation, the effective date of which mandates commencement of programs to be housed in leased space before there is time for space to be acquired by advertisement; and

2. The agency's functions will be impaired or have to be discontinued unless other quarters to house the agency's operations are immediately located and occupied by the agency; or

(e) An emergency, other than one described in paragraph (a), (b), (c), or (d) of this subsection, exists, and the Governor has given his express written authorization of an emergency lease. The certificate shall state the details of the emergency, and the head of the agency shall include the Governor's written authorization along with the certificate sent to the Secretary of Finance and Administration Cabinet.

(4) Upon receipt by the Finance and Administration Cabinet of the certificate, written pursuant to paragraph (a), (b), (c), or (d) of subsection (3) of this section, or the certificate and the Governor's authorization written pursuant to paragraph (e) of subsection (3) of this section, the Department for Facilities Management shall take the action to locate and negotiate for the lease of space meeting the certifying agency's reasonable needs. As appropriate, the department shall keep the certificate or the certificate and the Governor's written authorization on file.

Section 6. KRS 56.806 is amended to read as follows:

(1) Except when another lease term is approved by the secretary of the Finance and Administration Cabinet, the terms of all leases entered into ***pursuant to Section 4 or 5 of this Act*** [~~under this section~~] may provide for an initial lease term beginning on a date stated and ending on [~~the thirtieth (30th) day of~~] June ***30*** in each year in which the General Assembly has convened in regular session and appropriated funds for the operation of the state government during the next ensuing biennium. ***The*** [~~Such~~] leases may grant the state successive options for the automatic renewal of the lease upon the same terms and conditions for additional renewal periods of twenty-four (24) months each, not to exceed three (3) [~~such~~] automatic renewal periods. Any lease containing provision for the automatic renewal of the lease after the expiration of the initial lease term shall also provide that the state may, upon written notice given to the lessor on or before April 15 of the year in which the initial or any automatic renewal term expires, elect not to exercise its option for the automatic renewal of the lease term. Subject to the agreement of the lessor, a lease in which the final automatic renewal period has expired, or will expire as of the end of the then current term, may be renewed upon the same terms and conditions, ***provisions of Section 4 of this Act to the contrary notwithstanding*** [~~without newspaper advertisement for space~~].

(2) The Department for Facilities Management shall comply with the provisions of this subsection when calculating rentable area for the purposes of a lease.

(a) If the Commonwealth is the only tenant on a single floor of a multi-story building, the rentable area shall be the entire area described by measuring to the inside finished surface of the dominant portion of the permanent outer building walls, excluding any major vertical penetrations of the floor which shall include, but not be limited to, stairways, elevator shafts, pipe chases, vertical air ducts, and the enclosing wall of all such excluded areas. Restrooms, corridors, and utility rooms which exclusively serve the floor occupied by the Commonwealth shall be included as part of the rentable area.

(b) If the Commonwealth is the only tenant in a one-story or multi-story building, rentable area shall be calculated pursuant to the provisions of paragraph (a) of this subsection except that those areas excluded pursuant to paragraph (a) shall be included as part of the rentable area.

(c) If the Commonwealth shares a floor with one (1) or more other tenants, the rentable area shall be calculated by measuring from the inside finished surface of the dominant portion of the permanent outer building walls to the office side of every corridor wall or other wall separating the Commonwealth's leased space from other adjacent rentable areas which shall include, but not be limited to, space under the control of another tenant, public corridors, restrooms, all common service and utility areas, stairways, elevator shafts, vertical pipe chases, and air ducts.

(d) The Commonwealth's rentable area determined pursuant to paragraphs (a), (b), and (c) of this subsection shall include columns and projections necessary to the building.

(3) The Commonwealth shall reserve the right to cancel a lease upon written notice within thirty (30), sixty (60), or ninety (90) days, whichever is specified in the lease agreement.

SECTION 7. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) The cabinet may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, if the improvements and rent increase have the prior approval of the cabinet secretary. The rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.

(3) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in the property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.

(4) Any modification to an existing lease which is required because of an emergency as described at subsection (3) of Section 5 of this Act shall be made pursuant to subsections (3) and (4) of Section 5 of this Act and this section.

(5) The Division of Real Properties, within the Department for Facilities Management, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 8. KRS 56.814 is amended to read as follows:

(1) No officer or employee of any state agency shall engage in any act or make any representation or commitment to any person relative to the lease of any real property by the state without specific written authorization from and approval by the Finance and Administration Cabinet and neither the state nor the department shall be bound by ***the*** [~~such~~] act, representation or commitment unless so authorized and approved.

(2) No officer or employee of any state agency shall disclose to any person or firm who might reasonably be expected to submit a proposal, any approved plans by the department for the lease of real property for which advertisement is required under KRS 56.800 to 56.820 ***and the provisions of this Act*** prior to the advertisement. Discussions of [~~such~~] approved leasing plans may be held after advertisement with persons interested in submitting a proposal pertaining to the space requirements.

SECTION 9. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) When there is a change in ownership in leased premises, the new owner shall furnish the Division of Real Properties, within the Department for Facilities Management, with a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease and other evidence in support of his claim to the payment of rent under the lease the Division of Real Properties may request. The Commonwealth shall change its records and redirect its rent payments accordingly.

(2) When the agency occupying leased premises or the Finance and Administration Cabinet receives information that a change in ownership has occurred, payments of rent shall be suspended until the Division of Real Properties learns the ownership of the premises and determines who is entitled to the rent.

SECTION 10. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Records relating to leases shall be a matter of public record, except as otherwise provided by law.

SECTION 11. A NEW SECTION OF KRS CHAPTER 56 IS CRATED TO READ AS FOLLOWS:

Judicial review of the action of the Finance and Administration Cabinet and its secretary and the Department for Facilities Management and its commissioner in the award, or modification, of a lease pursuant to KRS 56.800 to 56.820 and the provisions of this Act shall be limited to determining whether a lease or modification to a lease was procured by fraud or was awarded arbitrarily or capriciously.

SECTION 12. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.820 and the provisions of this Act to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to Section 4 of this Act for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include:

(a) The name of the agency that will occupy the premises;

(b) The name of the lessor;

(c) The terms of the lease;

(d) The reason for the lease;

(e) A copy of the writing required by subsection (17) of Section 4 of this Act;

(f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.820 and the provisions of this Act. If the cabinet has not complied with any requirement, the cabinet shall explain why;

(g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and

(h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease awarded pursuant to subsection (2) of Section 5 of this Act for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by subsection (2) of Section 5 of this Act.

(4) Any lease awarded as the result of an emergency described at subsection (3) of Section 5 of this Act shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to subsection (4) of Section 5 of this Act and shall further state:

(a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;

(b) The terms of lease before and after the emergency; and

(c) The procedure the department followed after the emergency to obtain a lease.

(5) (a) Any built-to-suit lease awarded pursuant to KRS 56.816 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state on what basis the Department for Facilities Management has determined that there is no space to let in the relevant community that will be suitable to meet the space needs of the agency; on what basis a determination has been made by the secretary of the Finance and Administration Cabinet, with the approval of the Governor, that the construction of a building by the Commonwealth to meet the need is not economically or otherwise feasible; and the economic justification for awarding a built-to-suit lease pursuant to KRS 56.816. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(b) Any built-to-suit lease awarded pursuant to KRS 56.820 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the written finding and executive order required by KRS 56.820(1) and the economic justification for awarding a built-to-suit lease pursuant to KRS 58.820. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(6) Whenever any lease contains a purchase option which is ultimately exercised by the Commonwealth, within thirty (30) days after the purchase, it shall be reported to the Capital Projects and Bond Oversight Committee. The report shall state the total cost of the building to the Commonwealth including rent payments made prior to the purchase.

(7) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to Section 7 of this Act, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to Section 7 of this Act, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to subsection (5) of Section 7 of this Act; and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in Section 7 of this Act. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at subsection (3) of Section 5 of this Act shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to subsection (4) of Section 5 of this Act and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;

3. Any comments received from the public pursuant to subsection (5) of Section 7 of this Act; and

4. A statement as to whether the Finance and Administration Cabinet complied with the requirements in subsections (3) and (4) of Section 5 of this Act and in Section 7 of this Act. If the cabinet has not complied with any requirement, the cabinet shall explain why.

Section 13. KRS 43.050 is amended to read as follows:

(1) The Auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the General Assembly to provide for the independent auditing of the accounts and financial transactions of all spending agencies of the state through a disinterested Auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.

(2) The Auditor shall:

(a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records and transactions of the budget units, and the general accounts of the state.

(b) Make a complete audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state, when [~~such~~] an audit is demanded in writing by the Legislative Research Commission, the secretary of the Finance and Administration Cabinet or the Governor, and may make [~~such~~] an audit when it is not so demanded.

(c) Examine annually the management, conduct and condition of all asylums, prisons, institutions for the mentally retarded and eleemosynary institutions and public works owned, operated or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power, giving special attention to the faithful and economical application of any money appropriated by the state to the institution or public works examined, or of any money in which the state has an interest.

(d) Examine annually the management and condition of the offices of the Finance and Administration Cabinet, the State Treasurer and the Superintendent of Public Instruction, to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.

(e) ***Examine, at least biennially, the Finance and Administration Cabinet's compliance with KRS 56.800 to 56.820 and the provisions of this Act. Within sixty (60) days of the completion of each examination, the Auditor shall report his findings and recommendations to the Capital Projects and Bond Oversight Committee.***

(f) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make ***the*** [~~such~~] collections.

(g)[~~(f)~~] Make special audits and investigations when required by the Governor.

(h)[~~(g)~~] Investigate the means of accounting for, controlling and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.

(i)[~~(h)~~] Audit the statements of financial condition and operations of the state government, examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each branch budget recommendation, and certify in writing the results of ***the*** [~~such~~] audit and examination with ***the*** [~~such~~] comments [~~as~~] he deems necessary for the information of the General Assembly, his certificate and comments to be included with the statements and estimates as presented in the branch budget recommendation.

(j)[~~(i)~~] Report immediately in writing to the Governor, each member of the Legislative Research Commission, and the secretary of the Finance and Administration Cabinet, any unauthorized, illegal, irregular or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure or practice is contemplated, and any obstruction of the Auditor or his agents during the conduct of any audit or investigation of a state agency.

(k)[~~(j)~~] Assist the Legislative Research Commission at hearings and investigations conducted by it and cooperate with the Legislative Research Commission in the preparation of its reports to the General Assembly.

(l)[~~(k)~~] Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and ***the*** [~~such~~] accounts [~~as~~] he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.

(3) The Auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.

(4) The Auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of ***the*** [~~such~~] funds or property in the course of the audits provided for in this section.

Section 14. The following KRS sections are repealed:

56.802 Request for space by agency — Determination of need by department for facilities management — Advertisement for leasing proposals — Award of lease by commissioner — Limited judicial review — Report to capital projects and bond committee.

56.804 Newspaper advertising not required, when.

56.811 Regulations providing manner of calculating rent — Report of modification of existing lease to capital projects and bond oversight committee.

56.830 Negotiation, renewal and modification of leases — Terms — Calculation of rent — Prohibition of permanent improvements — Disclosure of ownership.

The Committee Amendment No. 1 to **HB 314** is as follows:

Amend printed copy of **HB 314** on page 2, line 23, delete "***12***" and insert in lieu thereof "***13***";

And on page 5, line 3, delete "***12***" and insert in lieu thereof "***13***";

And on page 19, after line 21, by adding the following new section and by renumbering the remaining sections accordingly:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) When the owner of real property selected to be leased to the Commonwealth is a corporation, partnership, business trust or organization, a disclosure statement providing a list of the names of all persons owning five percent (5%) or more of the shares in such entities and the names of all partners, including silent and limited partners, shall be furnished to the Finance and Administration Cabinet prior to the execution of the lease agreement.

(2) Any person, corporation, partnership, business trust or organization which receives income from the lease of real property to the Commonwealth and then, by way of assignment, transfer, or any other direct or indirect means, conveys some part of that income to any other person, corporation, partnership, business trust or organization shall file a disclosure statement with the Finance and Administration Cabinet. The disclosure statement shall identify each recipient of the income and the amount received by each recipient.

(3) A new disclosure statement shall be furnished to the Finance and Administration Cabinet upon:

(a) Any change or transfer of ownership involving persons, including silent or limited partners, owning five percent (5%) or more of the shares in the corporation, partnership, business trust or organization; or

(b) Any change in the distribution of income from the leased property by way of assignment, transfer, or any other direct or indirect means.

(4) The Department for Facilities Management shall maintain each disclosure statement obtained pursuant to this section in the appropriate lease file and shall make all lease files available for public inspection.";

And on page 33, between lines 13 and 14, by adding the following:

"56.812 Lists of owners of property to be furnished to cabinet."

HB 323, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.580 is amended to read as follows:

(1) ***As used in this section, unless the context requires otherwise, "agency" means the agency of state government which administers the tax to be refunded or credited.***

(2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the ***appropriate agency*** [~~revenue cabinet~~] shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, or any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the ***agency*** [~~cabinet~~] and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the ***agency*** [~~cabinet~~], the taxpayer may pay the amount claimed by the ***agency*** [~~cabinet~~] to be due, and if an appeal is taken by the taxpayer from the ruling of the ***agency*** [~~cabinet~~] within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the ***agency*** [~~cabinet~~] shall authorize ***the*** [~~such~~] refund or credit as the Kentucky Board of Tax Appeals or courts may direct.

(3) If [~~(2) In the event~~] refunds or credits result from clerical error of the ***agency*** [~~cabinet or its agents~~], but not otherwise, refunds or credits shall be authorized with interest at the tax interest rate as defined in KRS 131.010(6). The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(4)[~~(3)~~] Nothing in this section shall be construed to authorize the ***agency*** [~~cabinet~~] to make or cause to be made any refund except within four (4) years from the date the money was paid into the State Treasury. Nothing in this section shall be construed as requiring the ***agency*** [~~cabinet~~] to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the ***agency*** [~~cabinet~~] the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.

(5)[~~(4)~~] The terms "overpayment" and "payment where no tax was due," as used in this section, shall be construed as referring to tax liability under the terms of the applicable statute without reference to the constitutionality of the statute. [~~It is not intended that~~] This section shall ***not*** apply to any case ***in which*** [~~wherein~~] the statute may be held unconstitutional, either in whole or in part.

(6)[~~(5)~~] In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

Section 2. KRS 134.590 is amended to read as follows:

(1) When it appears to the ***appropriate agency of state government*** [~~revenue cabinet~~] that money has been paid into the State Treasury for ad valorem taxes when no such taxes were in fact due, or for taxes of any kind paid under a statute held unconstitutional, the ***agency of state government which administers the tax*** [~~revenue cabinet~~] shall refund the money, or cause it to be refunded, to the person who paid the same. This shall not authorize a refund to a person who has made payment of the tax due on any tract of land, unless the entire tax due the state on such land has been paid.

(2) No [~~such~~] refund shall be made unless application for same is made in each case within two (2) years from the time payment was made.

(3) When it has been determined that city, urban-county, county, school district or special district ad valorem taxes have been paid to a city, urban county, county, school district or special district when, in fact, no taxes were due, or the amount paid was in excess of the amount finally determined to be due, ***the*** [~~such~~] taxes shall be refunded to the person who paid the tax.

(4) Refunds of ad valorem taxes shall be authorized by the mayor or chief finance officer of any city or urban-county government for the city or urban-county government or for any special district for which the city or urban-county government is the levying authority; by the county judge/executive of any county for the county or special district for which the fiscal court is the levying authority; or by the chairman or finance officer of any district board of education.

(5) Upon proper authorization the sheriff or collector shall refund the taxes from current tax collections

in his possession. If there are no such funds, refund shall be made by the finance officer of the district. The sheriff or collector shall receive credit for any refunds made by him on his next collection report to the district.

(6) No refund shall be made unless application is made in each case within two (2) years from the date payment was made. If the question of the amount of taxes due is in litigation, the application for refund ***shall*** [~~must~~] be made within two (2) years from the date the amount due is finally determined.

Section 3. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.500, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. [~~; provided that~~] Any [~~such~~] loss shall ***be*** [~~have been~~] reported within thirty (30) days after discovery of ***the*** [~~such~~] loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) (a) "Gasoline dealer" means any person who:

1. Imports into this state, or causes to be imported into this state, nontaxpaid gasoline for use, distribution, storage or sale and delivery in this state after it has been stored in this state;

2. Receives or accepts delivery of nontaxpaid gasoline within this state into bulk storage facilities owned or operated for the storage of gasoline for transshipment within or without this state;

3. Refines, produces, distills, manufactures, blends or compounds gasoline in this state; or

4. Receives or accepts delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, such person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer;

(b) "Special fuels dealer" means any person who:

1. Imports into this state, or causes to be imported into this state, nontaxpaid special fuels for use, distribution, storage or sale and delivery in this state after it has been stored in this state;

2. Receives or accepts delivery of nontaxpaid special fuels within this state into storage facilities owned or operated for the storage of special fuels for transshipment within or without this state; or

3. Refines, produces, distills, manufactures, blends or compounds special fuels in this state;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments and all other products so usable except propane, butane or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel and crude oil;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, kerosene not to be used to propel licensed motor vehicles, or liquefied petroleum gas as defined in KRS 234.100;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state unless the contrary is established by the dealer pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload or cargo lots, withdrawing ***it*** [~~such~~] from refinery, marine, pipeline terminal or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing ***the*** [~~such~~] gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage or delivered by pipeline at a pipeline terminal, delivery station or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents (9) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers ***or from information available through independent statistical surveys of gasoline prices***. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, ***the*** [~~such~~] information regarding wholesale selling prices for the previous month [~~as may be reasonably~~] required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660 and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Gasoline-alcohol blend" means a mixture of gasoline and fuel-grade alcohol in which the fuel-grade alcohol content is ten percent (10%) or less of the mixture;

(12) "Fuel-grade alcohol" means ethyl alcohol which is:

(a) At least one hundred and ninety-eight (198) proof;

(b) Denatured in accordance with legal requirements;

(c) Derived from United States produced corn, grain, or renewable resources, that is, ground, fermented and distilled by a licensed alcohol producer, in a plant facility that is powered primarily by United States produced coal; and

(d) Suitable for use in gasoline-alcohol blends;

(13) "Licensed alcohol producer" means a distiller of fuel-grade alcohol who is licensed and bonded pursuant to this chapter;

(14) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicles;

(15) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction;

(16) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm.

Section 4. KRS 143.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Cabinet" means "Revenue Cabinet."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth in this state.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into ***by which*** [~~whereby~~] persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest ***shall be*** [~~is~~] the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in section 613 (c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense***,*** [~~(~~]whether or not by common carrier***,*** [~~)~~] incurred in transporting coal shall not be considered as gross income from the property. Gross value ***shall*** [~~is to~~] be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value ***shall be*** [~~is~~] the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall ***be the amount received or receivable from the first non-controlled sale by the related parties. If coal is sold to a related party for consumption, gross value shall*** not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value ***shall be*** [~~is~~] the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value ***shall be*** [~~is~~] the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes***,*** including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer ***shall*** [~~must~~] compute his tax liability and remit the tax due to the cabinet. The reporting period shall be monthly. However, the cabinet may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading for shipment. "Processing" ***shall*** [~~does~~] not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity***;*** or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control ***shall exist*** [~~exists~~] if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the cabinet may apportion or allocate the receipts between or among ***the*** [~~such~~] persons, organizations, or businesses if it determines that ***the*** [~~such~~] apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter ***shall be*** [~~is~~] synonymous with the economic interest ownership required by internal revenue code section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) Transportation expense shall mean:

(a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock or customer ***if*** [~~provided that~~] the transaction is at arm's length.

(b) The cost incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock, or customer.

(c) The cost incurred in transporting the coal for purpose of marketing.

(d) [~~In no case, shall~~] Transportation expenses ***shall not*** include the cost of acquisition, improvements, or maintenance of real property; the cost of loading or unloading facilities.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.

Section 5. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the Revenue Cabinet is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the Revenue Cabinet, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on ***the*** [~~such~~] basis [~~as may be~~] agreed upon by the boards of education and the tax collector. ***The*** [~~Such~~] expenses shall be borne by the school districts on a basis proportionate to the revenue received by ***the*** [~~such~~] districts.

(3) The following shall apply only when the Revenue Cabinet is acting as tax collector under the authority of KRS 160.627(2):

(a) When the cabinet is initially requested to be the tax collector under KRS 160.627(2), the cabinet shall estimate the costs of implementing the administration of ***the*** [~~such~~] tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the cabinet ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the cabinet. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the cabinet has fully recovered ***the*** [~~such~~] costs. ***The*** [~~Such~~] payment shall be made within thirty (30) days of notification by the cabinet.

(b) The Revenue Cabinet shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the cabinet in collecting the excise tax. ***The*** [~~Such~~] expenses, which shall be deducted by the Revenue Cabinet from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the cabinet to school districts on a basis proportionate to the number of returns processed by the Revenue Cabinet for each district compared to the total processed by the Revenue Cabinet for all districts.

(c) All funds received by the cabinet under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the cabinet for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The cabinet ***may*** [~~is authorized to~~] retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account ***shall be*** [~~is~~] to authorize the Revenue Cabinet to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580***(4)***[~~(2)~~], and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580***(5)***[~~(4)~~], within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the cabinet is acting as tax collector under the authority of KRS 160.627(2), the requesting school district ***may*** [~~is authorized to~~] enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982, any school district which requests the cabinet to collect taxes under the authority of KRS 160.627(2) ***shall*** [~~is required to~~] inform the cabinet of this request not less than one hundred fifty (150) days prior to January 1.

(g) [~~At no time will~~] The cabinet ***shall not*** be required to collect taxes authorized in KRS 160.621 of an individual when the cabinet is not pursuing collection of that individual's state income taxes. The cabinet ***shall*** [~~is~~] not ***be*** required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. ***No*** [~~In no event shall any~~] individual's tax payment ***shall*** be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the state Auditor ***shall be*** [~~is~~] the only party authorized to audit the Revenue Cabinet with respect to the performance of its duties under KRS 160.621.

HB 338, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Any personal property which has not been listed for taxation, for any year in which it is taxable, shall be deemed omitted property when the assessment is certified by the Revenue Cabinet under the provisions of KRS 133.180.

(2) All omitted personal property shall be assessed retroactively in the manner provided by law at any time within five (5) years from the date when it became omitted, but the lien accruing on any omitted personal property shall not prejudice the rights of bona fide purchasers acquired in the meantime.

(3) All omitted personal property voluntarily listed shall be subject to a penalty of ten percent (10%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent, had the property been listed as required by law, until the date the tax bill is paid.

(4) All omitted personal property not voluntarily listed shall be subject to a penalty of twenty percent (20%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent, had the property been listed as required by law, until the date the tax bill is paid.

Section 2. KRS 132.290 is amended to read as follows:

(1) Any real property which has not been listed for taxation, for any year in which it is taxable, by the time the board of assessment appeals completes its work for that year shall be deemed omitted ***real*** property. [~~Any personal property which has not been listed for taxation, for any year in which it is taxable, by the time the assessment is certified by the revenue cabinet under the provisions of KRS 133.180 shall be deemed omitted property.~~]

(2) All omitted ***real*** property shall be assessed retroactively in the manner provided by law at any time within five (5) years from the date when it became omitted[~~, but the lien thereby accruing on any such property, except real property, shall not prejudice the rights of bona fide purchasers acquired in the meantime~~].

(3) All omitted ***real*** property voluntarily listed shall be subject to a penalty of ten percent (10%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the ***real*** property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(4) All omitted ***real*** property not voluntarily listed shall be subject to a penalty of twenty percent (20%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the ***real*** property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(5) When the ***real*** property is assessed retroactively by action prosecuted in the manner provided by KRS 132.330 and 132.340, an additional penalty of twenty percent (20%) of the amount of the original tax, interest and penalty may be collected for the purpose provided in KRS 134.400 and paid into the state treasury. All other penalties and interest shall be distributed in the same manner as the tax.

Section 3. KRS 132.300 is amended to read as follows:

In addition to the penalties provided in ***Section 1 of this Act*** [~~KRS 132.290~~], failure to list any note or bond shall be a bar to any action upon the note or bond in any court and may be pleaded as a complete defense, but the holder thereof may at any time pay all taxes, penalties and accrued interest and thereupon be relieved from the defense.

Section 4. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the Revenue Cabinet, may at any time list ***the*** [~~such~~] property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The Revenue Cabinet shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4).

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky board of tax appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). ***Any personal property voluntarily listed as omitted property for taxation under this section shall be subject to the penalties provided in subsection (3) of Section 1 of this Act.*** Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4). ***Omitted personal property listed for taxation under this section by the cabinet shall be subject to the penalties provided in subsection (4) of Section 1 of this Act.***

Section 5. KRS 133.230 is amended to read as follows:

Upon receipt of a certification of omitted ***real*** property by the property valuation administrator or by the Revenue Cabinet, the county clerk shall make out for the use of the sheriff or collector a tax bill for each taxpayer who owes omitted ***real property*** taxes. The omitted ***real property*** tax bills shall be attested by the clerk in the same manner as the tax bills described in KRS 133.220. The clerk shall deliver the omitted ***real property*** tax bill to the sheriff or collector as soon as the omitted ***real*** [~~poll or~~] property has been finally assessed.

Section 6. KRS 134.390 is amended to read as follows:

A tax bill rendered against omitted ***real*** property required to be listed with the property valuation administrator or the Revenue Cabinet or against an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall become due on the day the bill is prepared, and shall be considered delinquent and subject to a penalty of ***ten*** [~~six~~] percent ***(10%)*** [~~(6%)~~] of the tax, penalty and interest due, unless paid within thirty (30) days after it becomes due, except as otherwise provided by law. All provisions of law of the particular taxing district having an interest therein relating to delinquent taxes on the same class of property or taxpayers involved shall apply to the delinquent omitted ***real property*** tax bill unless otherwise provided by law.

Section 7. KRS 136.182 is amended to read as follows:

On or before ***April 30 of*** [~~March 1, 1955, and~~] each year [~~thereafter~~], each nonresident person, corporation, partnership or other business association owning or operating boats, tugs, barges, or other watercraft whose route or system is partly within this state and partly within another state or states, shall on forms provided by the Revenue Cabinet provide the Revenue Cabinet with a detailed description of all such property as well as a detailed description of the entire route or system traversed and such other information as the Revenue Cabinet may by regulation prescribe.

Section 8. The provisions of Section 1 of this Act shall become effective for all omitted personal property tax bills issued on or after August 1, 1990 by the Revenue Cabinet.

The Committee on Appropriations and Revenue reported **HB 97, HB 329** and **HB 377** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 97, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

There shall be excluded from the computation of the amount of taxes imposed by this chapter monies paid for the lease or rental of films by commercial motion picture theatres when the lease or rental is for the sole purpose of use in the normal course of business, if an admission fee is charged and if the commercial motion picture theatre collects and remits all other applicable sales and use taxes, including, but not limited to, that on admissions.

HB 329, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.175 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the Revenue Cabinet, ***the sheriff or the county clerk,*** the secretary shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the cabinet that failure to file or pay timely is due to reasonable cause.

Section 2. KRS 132.454 is amended to read as follows:

(1) When land which is valued and taxed as agricultural or horticultural land under paragraph (g) of subsection (2) of KRS 132.450 is converted to any other use, that portion of the land upon which the use is changed shall be subject to deferred taxes for the current tax year and the immediately preceding two (2) tax years***, the*** [~~; except that land assessed according to its value for agricultural or horticultural purposes on which the use is changed in 1971 shall be subject to such taxes for 1971; and land on which the use is changed in 1972 shall be subject to such taxes for 1971 and 1972, such~~] taxes to become a lien on the property.

(2) When land becomes subject to the deferred taxes provided for in subsection (1) of this section, the property valuation administrator or other assessing official shall certify the difference in value subject to deferred tax for each of the years for which deferred taxes are due to the county clerk or other person responsible for preparation of tax bills who shall prepare a supplemental tax bill for each year computed at the rates applicable for the year for delivery to the sheriff or tax collector for collection. ***The*** [~~Such~~] bills shall be due and payable within thirty (30) days after the date of issue. If unpaid within thirty (30) days, a penalty of ***ten percent (10%)*** [~~six percent (6%)~~] shall be added to these bills.

(3) The provisions of KRS Chapters 134 and 135 relating to the collection of delinquent taxes on real property shall apply to collection of the deferred taxes provided herein.

Section 3. KRS 133.220 is amended to read as follows:

(1) The Revenue Cabinet annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls. [~~These tax bill forms shall be furnished not later than ten (10) days after the Revenue Cabinet has rendered its certification. The county annually shall furnish the county clerk with sufficient tax bill forms for his use in the preparation of tax bills for all taxpayers who are liable for a poll tax and who own no property assessed for taxation.~~]

(2) After receiving the forms, the county clerk shall ***prepare*** [~~make out~~] for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. If the bills are bound, the cost of binding shall

be paid out of the county levy. Each tax bill shall show the rate of tax upon each one hundred dollars ($100) worth of property for state, county, and school purposes; the name of the taxpayer and his mailing address; the number of acres of farm land and its value; the number of lots and their value; the amount and value of notes and money; the value of mixed personal property; the county poll; the school poll; the school tax; and the total amount of taxes due the state, county, school fund, and other levies. Provision shall be made for the sheriff to have a stub, duplicate, or other proper evidence of receipt of payment of each tax bill.

(3) Tax bills prepared in accordance with the certification of the Revenue Cabinet shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff.

(4) Upon delivery to him of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school fund, and other levies, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date.

Section 4. KRS 134.020 is amended to read as follows:

(1) All state, county, and district taxes, except as otherwise provided by law, shall be due and payable on September 15 following the assessment; except that all taxes in any year on unmanufactured tobacco, money in hand, or money on deposit outside this state, shall be due and payable on the second succeeding September 15 following the assessment, unless otherwise provided by law.

(2) Any taxpayer who pays his state, county, or district taxes by November 1 after they become due in any year shall be entitled to two percent (2%) discount thereon, and the sheriff shall allow the discount and give a receipt in full to the taxpayer. The sheriff may, at any time after the taxes mentioned in this section become due, receive less than the face amount of the tax bill as a credit on the amount due, including the amount of any penalties then due; and every [~~such~~] payment shall be credited upon the tax bill or upon sheets annexed thereto for that purpose, and acknowledged in writing or by a rubber stamp, indicating the amount so paid to the sheriff.

(3) All state, county, and district taxes, except as otherwise provided by law, shall become delinquent on January 1 following their due date.

(4) Any taxes which are not paid by the date when they become delinquent shall be subject to a penalty of ten percent (10%) on the taxes due and unpaid; except that taxes which became delinquent on January 1 shall be subject to a penalty of only two percent (2%) on the taxes due and unpaid, if paid on or before the last day of January. The sheriff shall collect the penalty and account for it as he is required to collect and account for taxes.

(5) When the tax collection schedule is delayed, through no fault of the taxpayers, the Revenue Cabinet may institute a revised collection schedule. The revised collection dates shall allow a two percent (2%) discount for alll payments made within thirty (30) calendar days of the date the tax bills were mailed. Upon expiration of the time period to pay the tax bill with a discount, the face amount of the tax bill shall be due during the next thirty (30) days. If the time period to pay the face amount has lapsed, a two percent (2%) penalty shall be added to the tax bill for payments made during the next thirty (30) day period. Upon expiration of this time period, a ten percent (10%) penalty shall be added to all tax bills paid thereafter.

Section 5. KRS 134.060 is amended to read as follows:

[~~(1)~~] Except as provided in subsection (5) of KRS 132.190, the holder of the legal title, the holder of the equitable title, and the claimant or bailee in possession of the property on the assessment date provided by law shall be liable for taxes thereon; but, as between themselves, the holder of the equitable title shall list the property and pay the taxes thereon, whether the property is in possession or not at the time of the payment.

[~~(2) If property is sold less than two (2) months after the assessment date, then, as between the purchaser and seller and in the absence of any contract to the contrary, the purchaser of the property shall pay the taxes thereon. If the property is sold more than two (2) months after the assessment date, the seller shall pay the taxes.~~]

Section 6. KRS 134.230 is amended to read as follows:

(1) The sheriff shall, before he qualifies and before he assumes the duties of the office for the first time, enter into bond with surety for the faithful performance of his duties as revenue collector. This bond shall

cover liability to account, as provided by law, for all charges of taxes made against him, and for all money received by him as revenue collector from the date he assumes the duties of the office to and including ***July*** [~~May~~] 31 of the same year. He shall enter into bond with surety thereafter before or as of ***August*** [~~June~~] 1 of each succeeding year of the term of his office, except that the expiration date of the bond for the last year in the term shall be to and including March 15 ***when the sheriff is not running for reelection or if the sheriff has opposition in the election. If a sheriff has no opposition when seeking reelection, the bond for the last year in the term shall run from August 1 through July 31.*** The county judge/executive shall hold a hearing at any time the sheriff may request for the purpose of executing bond.

(2) The county judge/executive, except in case of a corporate surety, shall judge [~~of~~] the sufficiency of the surety, and [~~in no case shall~~] sureties ***shall not*** be taken who are not jointly worth, subject to execution after the payment of all their debts and liabilities, a sum equal to the aggregate amount of state tax receipts that will probably be received by the sheriff during the year or period succeeding the execution of the bond. ***If*** [~~Where~~] a corporate surety bond is offered, it shall be for a sum not less than the largest amount of state tax receipts that the sheriff will probably have in his possession at any one time. The county judge/executive, with the approval of the Revenue Cabinet, shall determine the amount of the corporate surety bond and judge of the sufficiency of the surety.

(3) The county judge/executive may require the sheriff to give additional bond, with good surety to be approved by the county judge/executive, ***when*** [~~whenever~~] the county judge/executive deems it necessary in the interest of the state or county.

Section 7. KRS 134.380 is amended to read as follows:

(1) The secretary may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, school and other taxing districts in the state, except cities, to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property. ***If the cabinet assumes the duties of collecting the delinquent taxes assessed under the authority of KRS Chapter 132, it shall have all the powers, rights, duties and authority conferred generally upon the cabinet by the Kentucky Revised Statutes including, but not limited to, Chapters 131, 134 and 135.***

(2) Field agents, accountants and attorneys of the cabinet shall prosecute all [~~such~~] actions and proceedings under the direction of the secretary. Field agents, accountants, attorneys, and all other employees of the cabinet engaged in the prosecution of ***the*** [~~such~~] actions shall not be hired by personal service contract. The secretary shall prosecute diligently, or cause to be prosecuted by field agents, accountants and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the secretary of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, 136.050, 136.120 to 136.180 or 136.270.

(4) The cabinet may require any reports necessary to administer the law in connection with the collection of delinquent taxes, and may promulgate [~~rules and~~] regulations as to how the tax bills, certificates of delinquency and other forms shall be filed and recorded. The cabinet shall require an index to be kept of all certificates of delinquency.

Section 8. KRS 134.390 is amended to read as follows:

A tax bill rendered against omitted property required to be listed with the property valuation administrator or the Revenue Cabinet or against an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall become due on the day the bill is prepared, and shall be considered delinquent and subject to a penalty of ***ten*** [~~six~~] percent ***(10%)*** [~~(6%)~~] of the tax, penalty and interest due, unless paid within thirty (30) days after it becomes due, except as otherwise provided by law. All provisions of law of the particular taxing district having an interest therein relating to delinquent taxes on the same class of property or taxpayers involved shall apply to the delinquent omitted tax bill unless otherwise provided by law.

Section 9. KRS 134.440 is amended to read as follows:

(1) The advertisement of sale of tax claims shall be published pursuant to KRS chapter 424. The advertisement may in addition consist of the posting of printed notices containing the same information in three (3) or more conspicuous places in the county, fifteen (15) days before the sale. The sheriff shall place a copy of the advertisement at the courthouse door in a conspicuous place at least fifteen (15) days before the sale. The sale shall be at the courthouse door. The sheriff shall, not less than twelve (12) days before the sale, mail to the delinquent taxpayer's place of residence or business, if ***it*** [~~such~~] can be ascertained, a notice of the time and place of sale. Failure to send ***the*** [~~such~~] notice shall have no effect on the validity of the sale.

(2) As compensation for his services, the sheriff shall receive one dollar ($1.00) for each tax claim advertised. He shall, in addition, when a certificate of delinquency filed with the county clerk is paid, be entitled to six percent (6%) of that part of the tax claim represented by the total taxes plus ***ten*** [~~six~~] percent ***(10%)*** [~~(6%)~~] penalty. Both fees shall be added to the amount of the tax claim as a part of the certificate of delinquency and paid by the person who pays the tax claim, and [~~in no event shall~~] they ***shall not*** be paid by the state, county or taxing district. Any expenses incurred that must be paid before the sale of a tax claim or the settlement of an action by the state, county or taxing district shall be paid by the county, and this sum shall be a preferred claim of the county on any proceeds eventually recovered.

Section 10. KRS 134.470 is amended to read as follows:

An uncollectible tax bill or a certificate of delinquency shall embrace the entire tax claim, including the lien provided in subsection (1) of KRS 134.420, and shall continue to be a personal obligation of the delinquent taxpayer. Any property while owned by him shall be subject to foreclosure or execution in satisfaction of a judgment pursuant to an action in rem or an action in personam, or both, to enforce the obligation, and shall also be subject to distraint or levy as provided in subsection (1) of KRS 134.430, but no action may be brought to enforce a certificate of delinquency until ***one (1) year*** [~~three (3) years~~] after the issuance thereof, and the action ***shall*** [~~must~~] be instituted within five (5) years after the expiration of that ***one (1)*** [~~three (3)~~] year period. During the ***one (1)*** [~~three (3)~~] year period the statute of limitations shall be suspended in all respects and shall be continued in all respects for five (5) years thereafter. If the owner of a certificate of delinquency proceeds to enforce satisfaction of the certificate, he may include all other certificates held by him against the same delinquent taxpayer***,***[~~;~~] but insofar as the proceedings may undertake to effect a lien foreclosure, they shall be governed by the time applicable to the particular property subject to the lien, if that property is no longer owned by the delinquent.

Section 11. KRS 134.490 is amended to read as follows:

(1) If a private person is the owner of a certificate of delinquency, he may, after the expiration of the ***one (1)*** [~~three (3)~~] year period provided in KRS 134.470:

(a) Institute an action against the delinquent taxpayer to collect the amount of the certificate, and any other [~~such~~] certificates subsequently issued to the same owner against the same delinquent, and shall have all the remedies available for the enforcement of a debt; or

(b) Institute an action to enforce the lien provided in subsection (1) of KRS 134.420, represented by the certificate that is more than ***one (1) year*** [~~three (3) years~~] of age, and those certificates subsequently held by the same owner against the same delinquent or property; or

(c) Institute one (1) action including both types of actions mentioned in paragraphs (a) and (b) of this subsection, and such joinder of actions shall not be defeated in the event the delinquent taxpayer has disposed of any property covered by the lien, but the purchaser of the property shall be made a defendant if the judgment is to affect his interest in the property, and as between them the delinquent taxpayer shall be responsible.

(2) If the state, county or a taxing district is the owner of a certificate of delinquency, it shall have, after the expiration of the ***one (1)*** [~~three (3)~~] year period provided in KRS 134.470, in addition to the remedies mentioned in subsection (1) of this section, the right to distrain and sell any property owned by the delinquent, including that on which the lien provided in subsection (1) of KRS 134.420 has attached. Any property sold under [~~such~~] distraint proceedings shall be sold in the same manner as provided in KRS 134.430 and 134.440, except that the exercise of ***the*** [~~such~~] power shall be vested in the county attorney. The county attorney may designate the property subject to distraint and require the sheriff to take the custody thereof if he deems custody of the property necessary. If the sheriff fails to perform this duty, he shall not be entitled to his six percent (6%) fee provided in KRS 134.440.

(3) ***If*** [~~Where~~] property is sold pursuant to a judgment of foreclosure, it shall not be appraised as in other foreclosure proceedings and there shall be no right of redemption except as provided in KRS 134.510. If there is no purchaser at a foreclosure sale, the master commissioner shall make a deed to the person or persons shown by record to be the owner of the certificate or certificates of delinquency, and they shall have a pro rata interest therein in accordance with the amount of their respective certificates.

Section 12. KRS 134.500 is amended to read as follows:

(1) Within fifty (50) days after the issuance of a certificate of tax delinquency to the state, county and taxing district, the county attorney shall cause a notice of the purchase to be served by the sheriff personally or by certified mail, return receipt requested, on the person in whose name the property was assessed, and advise him that the certificate is a lien of record against his land that bears interest at twelve percent (12%) per annum, and if not paid the county attorney will proceed as provided by law to collect same. A copy

of the return of the sheriff or the return receipt shall be filed by the sheriff in the office of the county clerk in the manner prescribed by the Revenue Cabinet. Failure to prepare ***the*** [~~such~~] notice shall not affect the validity of the claim of the state, county and taxing district.

(2) The county attorney shall prosecute the remedy or remedies provided in this chapter that are most likely to effect collection of the amount due on the certificate of delinquency. Upon the failure of the county attorney to give the notices provided in this section, or to prosecute the remedies for collection of certificates within twelve (12) months after the right to collect accrued, or to duly complete the performance of any other duties necessary to collect the claims of the state, county and taxing districts for taxes, the Revenue Cabinet may perform such duties. ***In the performance of those duties, the cabinet shall have all the powers, rights, duties and authority with respect to the collection, refund and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, Chapters 131, 134 and 135.***

(3) The county attorney who prepares the notice and has it filed, as provided in subsection (1) of this section, and performs his other duties in respect to the certificate of delinquency, shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and such commission shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit. When the cabinet performs the duties of the county attorney without his assistance or cooperation, the fee which would otherwise be paid the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(4) Any action on behalf of the state, county and taxing districts authorized by this section or by KRS 134.470, 134.490 or 134.540 ***shall*** [~~must~~] be filed on relation of the secretary of revenue, and the petition shall be sent to the cabinet, which may require revision thereof in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all such actions, and may send him special assistance when the secretary deems [~~such~~] assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who cooperates in prosecuting the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

Section 13. KRS 134.510 is amended to read as follows:

(1) After the state, county and taxing districts obtain real property as authorized by KRS 134.490, the designated agent of the secretary of revenue may advertise and sell at public sale any of ***the*** [~~such~~] lands, and the secretary may convey the lands by deed to the purchaser. The secretary shall, within thirty (30) days from receipt of payment, pay to the county and taxing district the amount of the proceeds due each. The Revenue Cabinet shall be entitled to an administration fee equal to fifteen percent (15%) of the sale price of the property, which shall be paid into the delinquent tax fund provided for in KRS 134.400.

(2) The sales shall be advertised by a written or printed notice posted at the courthouse door for fifteen (15) days before the date of sale, and by publication pursuant to KRS chapter 424, and may in addition be advertised by printed handbills posted for fifteen (15) days before the date of sale in three (3) or more conspicuous places in the taxing districts.

(3) Any real property acquired by the state, county and taxing districts pursuant to KRS 134.490 may be redeemed at any time before the secretary gives a deed to a purchaser, by paying to the county clerk the amount due at the time the property was acquired, plus subsequent costs and interest at the rate of ***twelve*** [~~six~~] percent ***(12%)*** [~~(6%)~~] per annum.

HB 377, AN ACT making an appropriation from the Energy Assistance Trust Fund for use in the Low-Income Home Energy Assistance Program, and declaring an emergency.

WHEREAS, the need for heating assistance has increased dramatically due to severe cold temperature; and

WHEREAS, a recent federal court ruling requires the Cabinet for Human Resources to amend the plan to administer the Low-Income Home Energy Assistance Program for this winter; and

WHEREAS, additional funds may be withdrawn from the Energy Assistance Trust Fund as created under KRS 42.560 without decreasing the original amount due to receipt of additional oil overcharge refunds during this biennium;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there is appropriated from the Energy Assistance Trust Fund one million and five hundred thousand dollars ($1,500,000) for use in the Low-Income Home Energy Assistance Program. This appropriation is in addition to appropriations made from the fund by the 1988 General Assembly and for the current fiscal year beginning July 1, 1989, and ending June 30, 1990.

Section 2. That the Cabinet for Human Resources is authorized to withdraw from the Energy Assistance Trust Fund, in addition to appropriations made by the 1988 General Assembly, an amount of up to one million and five hundred thousand dollars ($1,500,000) for the current fiscal year.

Section 3. That these funds are made up entirely of new oil overcharge refunds received during this biennium and the withdrawal of this amount does not alter the original projection and schedule adopted in the 1988 General Assembly for the trust fund.

Section 4. That these funds shall be utilized in accordance with the Low-Income Home Energy Assistance Program plan approved by the Interim Task Force on Energy except as modified by federal court order.

Section 5. Whereas, the state faces a severe shortage in crisis moneys for energy assistance this winter, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Appropriations and Revenue reported **HB 221**, with Committee Amendments and Committee Substitute attached thereto with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to **HB 221** is as follows:

Amend printed copy of Committee Substitute to **HB 221** on page 13, by deleting lines 16 through 23 in their entirety and inserting in lieu thereof the following:

"Section 8. There is hereby appropriated to the Department of Military Affairs out of the Lottery Trust Fund for fiscal year ending June 30, 1991 the sum of one hundred thousand dollars ($100,000) for the administration of this Act.

Section 9. There is hereby appropriated out of the Lottery Trust Fund to the Vietnam Veterans' Bonus Trust Fund, to be administered by the Department of Military Affairs, for fiscal year ended June 30, 1990, the sum of forty million dollars ($40,000,000) for payment of the Vietnam Veterans Bonus. Any unexpended appropriation in fiscal year 1989-90 in the Vietnam Veterans' Bonus Trust Fund shall not lapse but shall be carried forward into fiscal year 1990-91. Any sum in excess of the amount appropriated necessary for payment of the Vietnam Veterans' Bonus shall be deemed a necessary governmental expense and shall be paid by the State Treasurer upon approval of the Finance and Administration Cabinet. The appropriations made herein shall become available on April 9, 1990, and payment of the Vietnam Veterans' Bonus shall commence on April 16, 1990.

Section 10. Whereas, to insure continuity in the application process for the bonus provided for Vietnam Veterans under the provisions of KRS 40.410 to 40.560 and this Act, to maximize the amount of time available for application for the bonus under the time constraints set out in this Act and to expedite payment of the bonus, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Orders of the Day

HB 328, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Committee Amendment No. 1 to **HB 328**. Agreed.

Representative Geveden moved that **HB 328**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See January 31, 1990 roll call on **HB 328** - Appendix.)

HB 328, as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 328**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Amendment No. 1 to **HB 113**. Agreed.

Representative Scorsone moved that **HB 113**, as amended, be passed.

Representative Johnson moved the adoption of Floor Amendment No. 2 to **HB 113**.

On the roll call the vote was yeas 28—Ackerson, Allen, Ballard, Bentley, Callahan, L. Clark, P. Clark, Donnermeyer, Gedling, J. Harper, K. Harper, Heleringer, Jackson, Johnson, Kerr, Lewis, Lyne, Maggard, Napier, Nett, Reinhardt, Riner, Sheehan, Siler, Strong, Todd, Walker, Yates. Nays 61—Adkins, Altman, Ark, Arnold, Barrows, Blandford, Blevins, Bronger, Brown, Burch, Casebier, Castleman, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Farrow, Freibert, Geveden, Gray, Gregory, Hancock, Hourigan, Jensen, A. Jones, T. Jones, Layman, Lear, Lefevers, LeMaster, Little, Long, Mack, Mason, McElroy, Moberly, Mullinix, Nelson, Noe, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, B. Smith, R. Smith, Stokes, Stumbo, Turner, Ward, Zimmerman.

Floor Amendment No. 2 to **HB 113** was rejected.

Representative Sheehan moved the adoption of Floor Amendment No. 7 to **HB 113**.

On the roll call the vote was yeas 29—Allen, Ballard, Bentley, Bruce, Callahan, L. Clark, P. Clark, Donnermeyer, Ford, Gedling, J. Harper, K. Harper, Heleringer, Johnson, Keith, Kerr, Lynn, Maggard, Morris, Napier, Nelson, Reinhardt, Riner, Sheehan, Siler, Strong, Turner, Walker, Yates. Nays 63—Ackerson, Adkins, Altman, Ark, Arnold, Barrows, Blandford, Blevins, Bronger, Burch, Casebier, Castleman, Clarke, Cline, Curd, Curtsinger, Cyrus, Deskins, Farrow, Freibert, Geveden, Gray, Gregory, Hancock, Hatcher, Hourigan, Jensen, A. Jones, T. Jones, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Mack, Mason, McBee, McElroy, Moberly, Mullinix, Noe, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, B. Richardson, P. Richardson, Ridley, Scorsone, B. Smith, R. Smith, Stokes, Stumbo, Todd, Ward, Worthington, Zimmerman.

Floor Amendment No. 7 to **HB 113** was rejected.

Representative Callahan moved the adoption of Floor Amendment No. 6 to **HB 113**.

On the roll call the vote was yeas 47—Ackerson, Adkins, Allen, Ballard, Bentley, Bronger, Bruce, Butler, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curtsinger, Deskins, Donnermeyer, Ford, Gedling, Hancock, J. Harper, K. Harper, Heleringer, Hourigan, Jackson, Johnson, Keith, Kerr, Lewis, Lyne, Maggard, Morris, Mullinix, Napier, Nett, Noland, Northup, Reinhardt, Riner, Sheehan, Siler, Strong, Todd, Turner, Walker, White, Yates. Nays 49—Altman, Ark, Arnold, Barrows, Blandford, Blevins, Burch, Casebier, Clarke, Curd, Cyrus, Farrow, Freibert, Geveden, Gray, Gregory, A. Jones, T. Jones, Layman, Lear, Lefevers, LeMaster, Little, Long, Mack, Mason, McBee, McElroy, Moberly, Nelson, Noe, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, B. Smith, R. Smith, Stokes, Stumbo, Ward, Worthington, Zimmerman.

Floor Amendment No. 6 to **HB 113** was rejected.

Representative K. Harper moved the adoption of Floor Amendment No. 3 to **HB 113**.

On the roll call the vote was yeas 62—Ackerson, Adkins, Allen, Altman, Ballard, Bentley, Blandford, Bronger, Bruce, Butler, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Donnermeyer, Ford, Gedling, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, Keith, Kerr, Layman, Lefevers, Lewis, Lile, Little, Maggard, Mason, McElroy, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Priddy, Rapier, Reinhardt, Richards, Riner, Sheehan, Siler, R. Smith, Strong, Stumbo, Todd, Turner, Walker, Yates. Nays 32—Ark, Arnold, Barrows, Blevins, Brown, Burch, Clarke, Cyrus, Deskins, Farrow, Freibert, Geveden, Gregory, A. Jones, T. Jones, Lear, LeMaster, Long, Mack, Moberly, Noe, Overstreet, Preston, Pritchett, B. Richardson, P. Richardson, Ridley, Scorsone, Stokes, Ward, Worthington, Zimmerman.

Floor Amendment No. 3 to **HB 113** was adopted.

Representative K. Harper moved the adoption of Floor Amendment No. 4 to **HB 113**.

On the roll call the vote was yeas 51—Ackerson, Adkins, Allen, Altman, Ballard, Bentley, Bronger, Bruce, Butler, Callahan, Castleman, L. Clark, P. Clark, Curtsinger, Donnermeyer, Ford, Gedling, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, Keith, Kerr, Lewis, Lile, Lyne, Maggard, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, Priddy, Reinhardt, Riner, Sheehan, Siler, R. Smith, Strong, Todd, Turner, Walker, Yates, Zimmerman. Nays 49—Ark, Arnold, Barrows, Blandford, Blevins, Brown, Burch, Casebier, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Farrow, Freibert, Geveden, Gray, Gregory, A. Jones, T. Jones, Layman, Lear, Lefevers, LeMaster, Little, Long, Mack, Mason, McBee, McElroy, Moberly, Noe, O'Brien, Overstreet, Preston, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, B. Smith, Stokes, Stumbo, Ward, White, Worthington.

Floor Amendment No. 4 to **HB 113** was adopted.

Representative Walker moved the adoption of Floor Amendment No. 8 to **HB 113.**

On the roll call the vote was yeas 26—Allen, Ballard, Bruce, Callahan, L. Clark, P. Clark, Ford, Gedling, J. Harper, K. Harper, Heleringer, Jensen, Johnson, Keith, Kerr, Lyne, Napier, Nett, Sheehan, Siler, R. Smith, Strong, Todd, Turner, Walker, Yates. Nays 71—Ackerson, Adkins, Altman, Ark, Arnold, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Burch, Butler, Casebier, Castleman, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Farrow, Freibert, Geveden, Gray, Gregory, Hancock, Hatcher, Hourigan, Jackson, A. Jones, T. Jones, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, B. Smith, Stokes, Stumbo, Ward, White, Worthington, Zimmerman.

Floor Amendment No. 8 to **HB 113** was rejected.

Representative Johnson moved the adoption of Floor Amendment No. 5 to **HB 113.**

Representative Scorsone inquired whether Floor Amendment No. 5 was germane to **HB 113.**

The Speaker ruled Floor Amendment No. 5 was not germane to **HB 113.**

On the roll call the vote was: Yeas 69, Nays 29. (See January 31, 1990 roll call on **HB 113** - Appendix.)

HB 113, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 113**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Gray moved the adoption of the following **HR 79**:

HR 79, A RESOLUTION adjourning the House of Representatives in memory and in honor of Lois Vivian Walker Morris.

With deepest respect, we pay homage and tribute to Lois Vivian Walker Morris.

WHEREAS, Lois Vivian Walker Morris was born on June 15, 1919, in Okolona, Mississippi; and

WHEREAS, Lois Vivian Walker Morris departed this life on January 27, 1989; and

WHEREAS, Lois Vivian Walker Morris was the loving daughter of Thomas and Clara Lomax Walker; and

WHEREAS, Lois Vivian Walker Morris was a graduate of Clark College in Atlanta, Georgia, and the Atlanta University School of Social Work, Atlanta, Georgia; and

WHEREAS, Lois Vivian Walker Morris received her Master of Arts degree in political science and international law from Catholic University of America in Washington, D.C.; and

WHEREAS, Lois Vivian Walker Morris was a former Professor of History at Alcorn State College in Alcorn, Mississippi; and

WHEREAS, Lois Vivian Walker Morris was a former Field Instructor at Kent School of Social Work, University of Louisville in Louisville, Kentucky; and

WHEREAS, her accomplishments as an educator exemplifies her professionalism in the classroom; and

WHEREAS, to mention only a few of her many leadership accomplishments, she was the founder of Louisville's first chapter of the National Council of Negro Women; Founder and Executive Director of the National Black Women for Political Action; elected to the Louisville Board of Aldermen 1969-1975; appointed to Louisville's first Human Rights Commission; appointed to the Insurance Regulatory Board; appointed to Kentucky Commission on Human Rights; Secretary of National Southern Black Political Caucus; Chairman of Falls City Medical Auxiliary; Archivist and Society Editor of the Louisville Defender; and

WHEREAS, Lois Vivian Walker Morris leaves a legacy of thirty-three years of community service dedicated to Black culture, history and political leadership; and

WHEREAS, Lois Vivian Walker Morris was the loving wife of Dr. Ralph C. Morris; the devoted mother of Roslyn Delois Morris Palmer; and proud grandmother of Todd Anthony Palmer, Heather Allyse Palmer, Mark Morris Palmer and Sean Jeremy Palmer;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives laments the loss of this dedicated public servant and extends its sincere condolences to her family.

Section 2. That when the House of Representatives adjourns this day, Friday, January 26, 1990, it does so in memory and in honor of Lois Vivian Walker Morris.

Section 3. That the Clerk of the House of Representatives is directed to transmit one copy of this resolution to Dr. Ralph C. Morris, 740 South 44th Street, Louisville, Kentucky, 40211, and five copies to Ms. Roslyn Delois Morris Palmer, 3994 South Peach Way, Denver, Colorado, 80237.

HR 79 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 443, by Representative Layman: AN ACT relating to interscholastic athletics and declaring an emergency.

HB 444, by Representative Clarke: AN ACT relating to the Kentucky School for the Deaf and the Kentucky School for the Blind.

HB 445, by Representative Clarke: AN ACT relating to the collection of taxes.

HB 446, by Representatives A. Jones and Altman: AN ACT relating to wastewater discharge permit fees.

HB 447, by Representative Napier: AN ACT relating to retirement.

HB 448, by Representative Lewis: AN ACT relating to medical assistance.

HB 449, by Representative Lewis: AN ACT relating to license taxes.

HB 450, by Representative Lewis: AN ACT relating to payment of insurance benefits to mandate reimbursement which allows for consumer choice among duly licensed service providers.

HB 451, by Representatives Brown and Blevins: AN ACT relating to on-site sewage disposal.

HB 452, by Representative Curd: AN ACT relating to retirement.

HB 453, by Representatives B. Smith and Turner: AN ACT relating to independent candidates.

HB 454, by Representatives Blevins, Mason, J. Harper, Moberly, Scorsone, Arnold, T. Jones and Worthington: AN ACT relating to water replacement.

HB 455, by Representative LeMaster: AN ACT proposing an amendment to Sections 70, 71, 82, 91, 95 and 209 of the Constitution of Kentucky relating to state officers.

HB 456, by Representative Lear: AN ACT relating to landscape architects.

HB 457, by Representative Lear: AN ACT relating to motor vehicle seat belts.

HB 458, by Representative Crupper: AN ACT relating to small business.

HB 459, by Representative Deskins: AN ACT relating to workers' compensation.

HB 460, by Representatives Ridley and Lewis: AN ACT relating to state symbols.

HB 461, by Representative Deskins: AN ACT relating to mining.

HB 462, by Representative Deskins: AN ACT relating to state symbols.

HB 463, by Representatives Blevins, Moberly and B. Smith: AN ACT relating to higher education.

HB 464, by Representatives Casebier, Lear, Mack, Northup, Priddy, O'Brien, Zimmerman, Freibert, Ackerson, Nett, Lile, Moberly, Gray, Long, J. Harper, Strong, P. Richardson, Heleringer and Todd: AN ACT relating to crimes and punishments.

HB 465, by Representative Clarke: AN ACT relating to property tax.

HB 466, by Representative Ark: AN ACT relating to precincts.

HB 467, by Representative Reinhardt: AN ACT relating to motor vehicle ad valorem taxes.

HB 468, by Representatives Noe, T. Jones and Geveden: AN ACT relating to early childhood education and making an appropriation therefor.

HB 469, by Representative B. Richardson: AN ACT relating to wages and hours.

HB 470, by Representative Johnson: AN ACT relating to pawnbrokers.

HJR 81, by Representative B. Smith: A JOINT RESOLUTION directing the Secretary of Transportation to name the bridge on KY 2629 after Reginald F. Kirby.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 100, HB 348.**

Natural Resources and Environmental Protection: **HB 46, HB 289.**

Banking and Insurance: **HB 210, HB 351, HB 384, HB 388, HB 422.**

Representative Ark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ark moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 3 to **HB 113**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 217**. Agreed.

Representative Farrow moved that **HB 384** be withdrawn. Agreed.

Representative P. Richardson moved that **HB 296** be withdrawn. Agreed.

Announcements

The Clerk announced the following meetings:

The Committee on State Government, Friday, February 2, 1990 at 9:00 a.m.

The Committee on Banking and Insurance, Thursday, February 1, 1990 at 10: 00 a.m.

The Committee on Education, Thursday, February 1, 1990 at 10:00 a.m.

The Committee on Transportation, Thursday, February 1, 1990 at 9:00 a.m.

The Committee on Judiciary, Thursday, February 1, 1990 at 8:00 a.m.

The Appropriations and Revenue Subcommittee on Economic Development and Tourism, Thursday, February 1, 1990 at 8:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 1, 1990.

On the roll call the vote was yeas 83—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, B. Richardson, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 4—Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 1, 1990

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Philip Rowan, First Baptist Church, Burkesville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 31, 1990 be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 93, HB 147, HB 150** and **HB 151** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:05 p.m.)

HB 93, HB 147, HB 150 and **HB 151** delivered to the Senate, Signed by the President. Ordered delivered to the Governor.

Representative K. Harper moved that the rules be suspended to grant floor privileges to Miss Kentucky U.S.A. and to introduce and act upon a Resolution. Agreed.

HR 82, by Representative K. Harper: A RESOLUTION honoring the reigning Miss Kentucky USA, Tiffany Tenfelde.

Representative K. Harper moved the adoption of the following **HR 82**:

HR 82, A RESOLUTION honoring the reigning Miss Kentucky USA, Tiffany Tenfelde.

WHEREAS, Tiffany Tenfelde of Lakeside Park is soon to grace the runway in the Miss USA Pageant on March 2nd; and

WHEREAS, upon attaining the Miss USA title our Tiffany Tenfelde advances to yet another pageant - Miss Universe; and

WHEREAS, the very beautiful Tiffany Tenfelde is a brilliant twenty-two year old fourth-year student in the University of Cincinnati fashion design program; and

WHEREAS, Miss Kentucky USA is a leading student on the Dean's List and bestowed with the Silver Thimble Award for being the most outstanding student in her major;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hails Miss Kentucky USA and cheers her on to the Miss USA Title.

Section 2. That this honorable body recognizes that Tiffany Tenfelde possesses the warmth, positive attitude, intelligence, and radiant beauty that destines her to the winners circle anywhere.

Section 3. That Representative Ken Harper proudly introduces Miss Kentucky USA, Tiffany Tenfelde, and presents her with this resolution.

HR 82 was adopted by voice vote.

Introduction of Bills and Resolutions

HB 471, by Representatives Zimmerman, Morris, Strong, Bruce, Reinhardt, Turner, Lile, Todd and Siler: AN ACT relating to public assistance.

HB 472, by Representative Donnermeyer: AN ACT relating to licenses.

HB 473, by Representative Donnermeyer: AN ACT relating to malt beverage distributors.

HB 474, by Representatives Callahan, Bruce, Stumbo, Yates, Gray, Bronger, L. Clark, Priddy, McBee, Sheehan, Siler and Donnermeyer: AN ACT relating to motor vehicle license plates.

HB 475, by Representative L. Clark: AN ACT relating to crimes and punishments.

HB 476, by Representative Clarke: AN ACT relating to inheritance and estate taxes.

HB 477, by Representatives Callahan, Kerr, Butler, Walker, Donnermeyer, K. Harper and Reinhardt: AN ACT relating to public nuisances.

HB 478, by Representative Clarke: AN ACT relating to sales and use tax.

HB 479, by Representative Heleringer: AN ACT proposing to amend Section 28 of the Constitution of Kentucky relative to powers of the General Assembly.

HR 83, by Representatives Heleringer and Bronger: A RESOLUTION recognizing the outstanding contributions to Kentucky made by all elementary and secondary Catholic schools in Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 441, HB 458, HB 469.**

Appropriations and Revenue: **HB 436, HB 439, HB 445, HB 465.**

Banking and Insurance: **HB 470.**

Business Organizations and Professions: **HB 442, HB 456.**

Cities: **HB 437.**

Counties and Special Districts: **HB 449, HB 451.**

Education: **HB 443, HB 444, HB 452, HB 463, HB 468, HJR 77, SB 78.**

Elections and Constitutional Amendments: **HB 453, HB 455, HB 466.**

Energy: **HB 454.**

Health and Welfare: **HB 448, HB 450.**

Judiciary: **HB 464.**

Labor and Industry: **HB 438, HB 459.**

Natural Resources and Environmental Protection: **HB 446, HB 461.**

State Government: **HB 440, HB 447, HB 460, HB 462, SB 96.**

Transportation: **HB 435, HB 457, HB 467, HJR 81.**

Report of Committees

Th Committee on Rules reported **HB 136** and **HB 148** have been posted for passage in Orders of the Day, February 2, 1990.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 276, HB 315.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 381, SB 9, SB 94.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 253** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 253, AN ACT relating to transient merchants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 365.650 TO 365.695 IS CREATED TO READ AS FOLLOWS:

Any buyer who purchases from a transient merchant goods with a value in excess of fifty dollars ($50), shall acquire the right of cancellation and any other rights granted to a buyer by KRS 367.420 to 367.460.

Section 2. KRS 365.665 is amended to read as follows:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which ***the*** [~~such~~] merchant desires to transact business ***at least ten (10) days prior to transacting business in the county***. The application for permit shall be designed and distributed by the Revenue Cabinet, shall be filed by the transient merchant with the county clerk, or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally and shall include but not be limited to the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in KRS 365.680.

The absence of any of the above information shall result in the denial of ***the*** [~~such~~] permit by the county clerk.

The Committee on Cities reported **HB 305** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 305, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the transportation cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service, ***or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years***. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employee may make the lump sum payment in his own behalf. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

The Committee on Education reported **HB 43**, with Committee Substitute and Committee Title Amendment attached thereto, and **HB 321**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 43, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 159 IS CREATED TO READ AS FOLLOWS:

(1) When a student, age sixteen (16) or seventeen (17) drops out of school, the principal or his designee shall notify the superintendent of schools of the district in which the student is enrolled. Such reports shall be made at the end of the grading period.

(2) Upon receiving said notification, the superintendent shall inform the student of his right to a hearing before the local board of education to show cause as to the reasons his driver's license should not be revoked. Within ten (10) days after receiving this notice, the student may request a hearing before the local school board.

(3) In order for the student to retain the driver's license, the board shall be satisfied that the license is needed to meet family obligations or family economic consideration which if unsatisfied would create an undue hardship or that the student is the only licensed driver in the household or the student is not considered a dropout pursuant to KRS 159.010 and 159.030. If the student fails to satisfy the board on any one (1) criteria or fails to request a hearing, the board shall notify the division of driver's licensing and the student's license shall be revoked. The board shall make a determination on the disposition of any hearing in regard to the driver's licensing case by its next regularly scheduled or special meeting after the initial hearing.

(4) Upon receiving notification from any school board that a driver's license should be revoked, the division of driver's licensing shall immediately withdraw the driving privileges of the person.

(5) Any person aggrieved by a decision of the school board issued pursuant to the section may appeal the decision within thirty (30) days to the Franklin circuit court.

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) ***Any person under the age of eighteen (18) who has not graduated from high school or who is***

not enrolled in an education institution, except those persons who satisfy the local school board pursuant to Section 1(3) of this Act, that suspension of their license would create an undue hardship or unless the person shall not be considered a dropout as provided for in KRS 159.010 and 159.030.

(3) Any person whose operator's license has been suspended, during the period of suspension;

(4)[~~(3)~~] Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(5)[~~(4)~~] An habitual drunkard or drug addict;

(6)[~~(5)~~] Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property;

(7)[~~(6)~~] Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways;

(8)[~~(7)~~] Any person requiring corrective lenses who uses a compound lens system which increases the power of the lenses while restricting the field of vision;

(9)[~~(8)~~] Any person who is unable to understand highway warnings or direction signs in the English language;

(10)[~~(9)~~] Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(11)[~~(10)~~] Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(12)[~~(11)~~] Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths; or

(13)[~~(12)~~] Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the state treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 3. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) In all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(6) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a). The cabinet shall permit driver's education programs approved by the cabinet to offer a nine (9) hour driver's education program which may be completed in one (1) day and which shall satisfy the provisions of this section.

(7) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(8) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

(9) Any person or legal entity that seeks to offer, conduct or operate a driver's education program as provided in this section shall submit sufficient documentation to the cabinet in writing that such program is needed in the geographical area that is proposed to be served. The cabinet shall promulgate administrative regulations which specify what constitutes need for such programs in a given geographical area. The cabinet shall determine whether such need is shown to exist and shall establish by administrative regulation an appeals procedure. The provisions of this subsection shall not apply to any driver's education program operating with the approval of the cabinet prior to July 15, 1986.

(10) The department of vehicle regulation shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school, except as provided for in KRS 186.440(2).

The Committee Substitute to **HB 43** is as follows:

HB 43, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 159 IS CREATED TO READ AS FOLLOWS:

(1) When a student, age sixteen (16) or seventeen (17) drops out of school or is declared to be academically deficient, the school administrator or his designee shall notify the superintendent of schools of the district in which the student is a resident or is enrolled. The reports shall be made at the end of each semester but may be made earlier in the semester for accumulated absences. A student shall be deemed to have dropped out of school when he has nine (9) or more unexcused absences in the preceding semester, none of which shall be the result of suspensions. A student shall be deemed to be academically deficient when he has not received passing grades in at least four (4) courses in the preceding semester and the school administrator has documented that the student has failed in courses designed for his potential achievement level. The local school board shall adopt a policy to reflect a similar standard for academic deficiency for students in alternative or part-time programs.

(2) Within ten (10) days after receiving the notification, the superintendent shall report the student's name and Social Security number to the Transportation Cabinet. As soon as possible thereafter, the cabinet shall notify the student that his operator's license, permit or privilege to operate a motor vehicle has been revoked or denied and shall inform the student of his right to a hearing before the District Court of appropriate venue to show cause as to the reasons his driver's license should be reinstated. Within fifteen (15) days after this notice is sent, the student may request a hearing before the District Court. The notification shall inform the student that he is not required to have legal counsel.

(3) In order for the student to have his license reinstated, the court shall be satisfied that the license is needed to meet family obligations or family economic consideration which if unsatisfied would create an undue hardship or that the student is the only licensed driver in the household or the student is not considered a dropout or academically deficient pursuant to this section. If the student satisfies the court, the court shall notify the cabinet to reinstate the student's license at no cost. Any person aggrieved by a decision of the court issued pursuant to this section may appeal the decision within thirty (30) days to the Circuit Court of appropriate venue. A student who is being schooled at home shall be considered to be enrolled in school.

(4) A student who has had his license revoked under the provisions of this section may reapply for his driver's license as early as the end of the semester during which he enrolls in school and successfully completes the educational requirements. He shall provide proof issued by his school within the preceding thirty (30) days that he is enrolled and is not academically deficient.

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) ***Any person under the age of eighteen (18) who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to Section 1(3) of this Act that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of Section 1 of this Act;***

(3) Any person whose operator's license has been suspended, during the period of suspension;

(4)[~~(3)~~] Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(5)[~~(4)~~] An habitual drunkard or drug addict;

(6)[~~(5)~~] Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property;

(7)[~~(6)~~] Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways;

(8)[~~(7)~~] Any person requiring corrective lenses who uses a compound lens system which increases the power of the lenses while restricting the field of vision;

(9)[~~(8)~~] Any person who is unable to understand highway warnings or direction signs in the English language;

(10)[~~(9)~~] Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(11)[~~(10)~~] Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(12)[~~(11)~~] Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths; or

(13)[~~(12)~~] Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the state treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated ***or to any student who has had his license revoked pursuant to Section 1 of this Act.***

Section 3. KRS 186.450 is amended to read as follows:

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a permanent operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than six (6) months. An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25). The twenty-five dollar ($25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated ***and persons reinstated pursuant to Section 1 of this Act.*** The permit holder shall have this permit in his possession and be accompanied by a licensed operator occupying the seat beside the operator at all times while operating a motor vehicle upon the highway.

(2) Any person who, except for his lack of instruction in operating a motorcycle or moped, would otherwise be qualified to obtain a permanent motorcycle operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than six (6) months. The permit holder shall have this permit in his possession at all times while operating a motorcycle upon the highway.

(3) The clerk, after determining that the applicant has fully complied with the laws governing the issuance of instruction permits shall, upon the request of the applicant, issue a permanent moped license. Any valid motor vehicle operator license may also be used in the operation of a moped.

(4) Any applicant for a permit who is under the age of eighteen (18) shall provide proof issued by his school within the preceding thirty (30) days that the applicant is currently enrolled or has been enrolled in the prior semester of school and is not or has not been found academically deficient. In the case of a student being schooled at home, a statement from his parent or guardian that he is being schooled at home and is not academically deficient shall be provided.

Section 4. KRS 186.470 is amended to read as follows:

(1) The application of any minor under the age of eighteen for an operator's license, motorcycle operator's license or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall be responsible as provided in KRS 186.590. If the minor has no father, mother or guardian, an operator's license or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. Such a signature need not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen unless the license, or any renewal thereof, is canceled as provided in subsection (2) of this section.

(2) A parent or a guardian of a minor applicant may file with the cabinet a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.

(3) The cabinet upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

(4) Any applicant for an operator's license who is under the age of eighteen (18) shall provide proof issued by his school within the preceding thirty (30) days that the applicant is currently enrolled or has been enrolled in the prior semester of school and is not or has not been found academically deficient. In the case of a student being schooled at home, a statement from his parent or guardian that he is being schooled at home and is not academically deficient shall be provided.

Section 5. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) In all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation

of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(6) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a). The cabinet shall permit driver's education programs approved by the cabinet to offer a nine (9) hour driver's education program which may be completed in one (1) day and which shall satisfy the provisions of this section.

(7) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the Transportation Cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(8) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(9) Any person or legal entity that seeks to offer, conduct or operate a driver's education program as provided in this section shall submit sufficient documentation to the cabinet in writing that such program is needed in the geographical area that is proposed to be served. The cabinet shall promulgate administrative regulations which specify what constitutes need for such programs in a given geographical area. The cabinet shall determine whether such need is shown to exist and shall establish by administrative regulation an appeals procedure. The provisions of this subsection shall not apply to any driver's education program operating with the approval of the cabinet prior to July 15, 1986.

(10) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in Section 1(1) of this Act.

The Committee Title Amendment to **HB 43** is as follows:

Amend printed copy of **HB 43** by amending the title to read as follows:

"AN ACT relating to the use of motor vehicle operator's licenses as an incentive to keep students in school."

HB 321, AN ACT relating to proprietary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 165A.330 is amended to read as follows:

(1) No person shall conduct, operate, maintain or establish a proprietary school as herein defined or use any words which designate or tend to designate to the public that the operator of ***the*** [~~such~~] school is qualified to conduct, operate and maintain ***the*** [~~such~~] school, unless he holds a valid current license from the board.

(2) Completed applications for a license shall be filed with the board thirty (30) working days prior to being considered by the board.

(3) Renewal applications shall be filed with the board by May 15, prior to the June 30 expiration date.

(4) The school owner shall notify the board if any personnel involved in the applicant school has ever been associated as owner, partner, director, or other administrator with a school that has had its license revoked or that has closed and caused students a loss of money. The board may consider this information in granting, renewing or revoking a license.

(5) No person shall in any way solicit any person or group of persons in this state to enroll at or attend any such school unless ***the*** [~~such~~] person holds a valid license as agent of the school for which he is soliciting.

Section 2. KRS 165A.340 is amended to read as follows:

(1) There is hereby established a state Board for Proprietary Education which shall consist of ***twelve (12)*** [~~eleven (11)~~] voting members to be appointed by the Governor as follows:

(a) Three (3) members appointed from a list of names submitted by the Kentucky Association of ***Career Colleges and*** [~~Independent Business~~] Schools;

(b) ***Two (2)*** [~~Three (3)~~] members representative of ***technical schools*** [~~proprietary schools other than business colleges~~];

(c) ***Six (6)*** [~~Five (5)~~] members representative of the public at large; and

(d) ***One (1) ex-officio member with voting powers, representative of the Governor's Advisory Committee on Vocational Education*** [~~In addition, the executive director of the state Postsecondary Education Commission shall serve as a non-voting member~~].

(2) Upon expiration of each of the respective terms of the members first appointed, the term of each successor shall be four (4) years or until his successor shall be appointed and qualified. At the time of the original appointments, the terms of board members will be staggered so that, as nearly as mathematically possible, they fall into three (3) classes. The first class will have two (2) year terms; the second class will have three (3) year terms; and the third class will have four (4) year terms.

(3) Members of the board shall annually elect one (1) of their number as chairman and the board ***may*** [~~is authorized to~~] employ and fix the compensation of the director and [~~to~~] employ and fix the compensation of all personnel required by it for the administration of the provisions of this chapter. The board ***may*** [~~shall have the power to~~] make all rules and regulations, including the establishment of fees and other charges[~~,~~] consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.

(4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at ***the*** [~~such~~] times and places as the board may designate and the majority of the members shall constitute a quorum.

(5) The board may sue and be sued in its own name.

(6) The members of the board shall receive ***one hundred dollars ($100)*** [~~fifty dollars ($50)~~] per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.

(7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.

(8) The board shall have the power to subpoena witnesses and school records as it deems necessary.

Section 3. KRS 165A.350 is amended to read as follows:

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless ***the*** [~~said~~] school shall have been issued by the board a certificate of approval or a certificate of registration pursuant to KRS 165A.310 to 165A.410 and ***the*** [~~said~~] person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the board.

(3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the board, and unless ***the*** [~~said~~] application shall be accompanied by a fee as established by the board and a good and sufficient surety bond or other collateral as required by the board but not less than five thousand dollars ($5,000).

(4) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to ***the*** [~~said~~] student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by ***the*** [~~said~~] proprietary school. The amount of liability on ***the*** [~~said~~] surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310(6). Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall ***not***[~~, in no event,~~] exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the board a duly verified claim against an agent. The board may consider a claim after ten (10) days' written notice by certified mail, return receipt requested, to ***the*** [~~such~~] licensee of ***the*** [~~said~~] complaint giving time and place of hearing thereon and if ***the*** [~~such~~] claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on ***the*** [~~such~~] bond and the surety thereon, and if not paid shall bring an action on ***the*** [~~such~~] bond in any court of record within the state of Kentucky.

(5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.

(6) A surety on ***the*** [~~said~~] bond may be released therefrom after ***the*** [~~said~~] surety shall make a written notice thereof directed to the board at least thirty (30) days prior to [~~said~~] release.

(7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner [~~as~~] provided herein.

(8) Notwithstanding the provisions of other sections, the board may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no [~~such~~] owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section***, if the*** [~~; provided, that said~~] proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 165A.310 to 165A.410.

(9) ***The board may issue a conditional license on a monthly basis for up to a nine (9) month period of time.***

(10) An agent's permit shall be suspended by operation of law when ***the*** [~~said~~] agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the board shall cause ***the*** [~~said~~] agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that ***the*** [~~said~~] permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the board.

(11)[~~(10)~~] An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or cancelled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.

(12) The owner or owners of the proprietary school shall be held responsible for all actions of their agents when performing their duties as agents.

Section 4. KRS 165A.370 is amended to read as follows:

(1) No proprietary school located or doing business in this state shall be issued a certificate under these provisions until the board shall have determined that ***the*** [~~said~~] proprietary school is maintained, operated, or, in the event of a new proprietary school, that ***the*** [~~said~~] school can be reasonably maintained and operated, in substantial compliance with the following minimum standards:

(a) That the instructional quality and content of each course or program of instruction or study shall be adequate to provide reasonable education and training to each enrolled student, and that ***the*** [~~such~~] quality and content shall be consistent with the public interest.

(b) That the proprietary school has adequate space, equipment, instructional materials, and instructor personnel to provide training and preparation of the quality specified in paragraph (a) of this subsection.

(c) That the educational and experience qualifications of directors, administrators, supervisors, and instructors are satisfactory in terms of the quality of instruction specified in paragraph (a) of this subsection.

(d) ***That the administrators shall hold a baccalaureate degree from an accredited college or university, or demonstrate the appropriate training or experience related to the responsibilities of the position as determined by the board.***

(e) That the instructors shall hold a baccalaureate degree from an accredited college or university in the area of teaching responsibility, or demonstrate appropriate training or experience related to the responsibilities of the position as determined by the board.

(f) That a copy of the course outline and a schedule of ***all*** tuition ***and fees, program completion rates and program placement rates of the school's graduates for the preceding twelve (12) months*** be furnished each student applicant prior to enrollment. ***Federal guidelines on placement and graduation rates shall be used.***

(g)[~~(e)~~] That, as defined by board regulation, a diploma, associate degree, certificate or other appellation shall be awarded to the student upon satisfactory completion of training by ***the*** [~~said~~] proprietary school which indicates that ***the*** [~~said~~] course or courses of instruction or study had been satisfactorily completed [~~by said student~~].

(h)[~~(f)~~] That adequate records shall be maintained and available for inspection ***and shall include the following materials:***

1. Current personnel forms;

2. Teacher evaluations;

3. Inventory of equipment and instructional material; and

4. Faculty transcripts.

(i) That separate files shall be maintained on each student and be available for inspection, and shall include copies of the following materials:

1. Students application for admission;

2. Enrollment agreement;

3. Academic record;

4. Attendance record;

5. Financial payment record; and

6. Placement record.

(j)[~~(g)~~] That the proprietary school shall be maintained and operated in compliance with all local, city, and county ordinances and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(k)[~~(h)~~] That the proprietary school is financially sound and reasonably capable of fulfilling commitments to students for training and preparation.

(l) That the school shall have available, if requested by the board, a financial statement certified by an independent accountant, and a profit-loss statement certified by the owner as being true and current. The board may call for any or all of the above information.

(m)[~~(i)~~] That the proprietary school does not utilize advertising of any type which is untrue, deceptive, or misleading ***and shall be able to document all advertised claims.***

(n)[~~(j)~~] That the chief executive officer, directors, owners, administrators, supervisors, and instructors are of good moral character as determined by the board.

(o)[~~(k)~~] That the proprietary school adheres to a tuition refund schedule as presented in published form prior to enrollment ***if*** [~~in the event~~] the student shall discontinue the training or be excluded therefrom.

(p) That the school shall prominently display its current license and the address and telephone number of the board office.

(q)[~~(l)~~] That the proprietary school adheres to ***the*** [~~such~~] other requirements consistent with the public interest as the board shall determine are necessary to improve the courses or programs of instruction or study offered by ***the*** [~~such~~] school, and to prevent misrepresentation, fraud, and collusion in the offering thereof.

(2) The board ***may*** [~~shall have the power to~~] investigate, appraise, and evaluate from time to time any proprietary school now located, or which may be hereafter located, in this state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the proprietary school is maintained and operated or, in the event of a new proprietary school, whether ***the*** [~~such~~] new proprietary school can be reasonably maintained and operated, in compliance with the provisions of this section. ***The*** [~~Said~~] investigation, appraisal, and evaluation shall include but is not limited to inspection of all records, books, and facilities at reasonable times and places without notice.

(3) If the board shall determine upon investigation, appraisal, and evaluation that a proprietary school located within this state is maintained and operated, or, in the event of a new proprietary school, that ***the*** [~~said~~] school can be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section, the board shall issue a certificate to ***the*** [~~said~~] proprietary school.

(4) If the board shall determine that any school is not maintained and operated, or cannot be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section and the minimum requirements determined by the board, the board, after notice and an opportunity for a hearing, may deny the issuance of a certificate or may establish conditions in conformity with these provisions which shall be met by ***the*** [~~said~~] school prior to issuance of [~~such~~] a certificate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 165A IS CREATED TO READ AS FOLLOWS:

All licensed schools, resident and nonresident, shall be required to contribute to a student protection fund. The fund shall be used to pay off debts incurred due to the closing of a school. The amount each school shall contribute shall be the same amount as its licensing fee.

The Committee Amendment No. 1 to **HB 321** is as follows:

Amend printed copy of **HB 321** on page 2, line 11 after the word "of" insert the word "***seven (7)***";

On page 2, line 15 after the word "***schools***" insert the words "***appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools***";

On page 2, line 20 delete the words "***Advisory Committee***" and insert "***Council***" in lieu thereof; and

On page 12, line 16 after the word "***certificate.***" insert the following: "***The board may issue a conditional license for up to a nine (9) month period of time.***".

The Committee on Judiciary reported **HB 182, HB 214**, with Committee Amendments attached thereto, **HB 271** and **HB 298** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 182, AN ACT relating to venue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services or goods in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

a. The father or mother or both are domiciled in this state;

b. There is a repeated pattern of intercourse between the father and mother in this state; or

c. Said intercourse is a tort or a crime in this state;

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person;

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail two (2) true copies to the secretary of state and shall also mail with the summons two (2) attested copies of plaintiff's complaint. The secretary of state shall, within seven (7) days of receipt thereof in his office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the secretary of state. The clerk shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure; and

(c) The clerk mailing the summons to the secretary of state shall mail to him, at the same time, a fee of ten dollars ($10), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose. ***A suit against a consumer debtor may also be filed in any county where the contract was signed or in which the services were rendered regardless of the defendant's current county of residence or the plaintiff's location.***

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Section 2. KRS 452.480 is amended to read as follows:

(1) An action which is not required by the foregoing provisions of KRS 452.400 to 452.475 to be brought in some other county may be brought in any county in which the defendant, or in which one of several defendants, who may be properly joined as such in the action, resides or is summoned.

(2) A suit against a consumer debtor may also be filed in any county where the contract was signed or in which the services were rendered regardless of the defendant's current county of residence or the plaintiff's location.

HB 214, AN ACT creating the Kentucky Rules of Evidence.

WHEREAS, The Supreme Court of Kentucky has power under Section 116 of the Constitution of Kentucky to prescribe rules of practice and procedure for the Court of Justice; and

WHEREAS, rules of evidence may in some instances be procedural law and within the power of the Supreme Court and in other instances substantive law and within the power of the General Assembly; and

WHEREAS, the Kentucky Rules of Evidence provides a comprehensive evidence code for the Commonwealth of Kentucky which will improve the administration of justice; and

WHEREAS, the Kentucky Rules of Evidence is a highly integrated code of procedural and substantive rules which would not serve the ends of justice well unless enacted and promulgated as a whole; and

WHEREAS, the enactment and promulgation of the Kentucky Rules of Evidence as a whole require action by both the General Assembly and the Supreme Court of Kentucky;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 422A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

Rule 101. Scope.

These rules govern proceedings in the courts of the Commonwealth of Kentucky, to the extent and with the exceptions stated in Rule 1101. The rules should be cited as "KRE," followed by the rule number to which the citation relates.

SECTION 2. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 102. Purpose and Construction.

These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

SECTION 3. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 103. Rulings on Evidence.

(1) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected; and

(a) Objection. In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(b) Offer of Proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

(2) Record of offer and ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(3) Hearing of jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(4) Motions in limine. A party may move the court for a ruling in advance of trial on the admission or exclusion of evidence. The court may rule on such a motion in advance of trial or may defer a decision on admissibility until the evidence is offered at trial. A motion in limine resolved by order of record is sufficient to preserve error for appellate review. Nothing in this rule precludes the court from reconsidering at trial any ruling made on a motion in limine.

(5) Palpable error. A palpable error in applying the Kentucky Rules of Evidence which affects the substantial rights of a party may be considered by a trial court on motion for a new trial or by an appellate court on appeal, even though insufficiently raised or preserved for review, and appropriate relief may be granted upon a determination that manifest injustice has resulted from the error.

SECTION 4. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 104. Preliminary Questions.

(1) Questions of admissibility generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subsection (2) of this rule. In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(2) Relevancy conditioned on fact. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(3) Hearing of jury. Hearings on the admissibility of confessions or the fruits of searches conducted under color of law shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require, or when an accused is a witness and so requests.

(4) Testimony by accused. The accused does not, by testifying upon a preliminary matter, become subject to cross-examination as to other issues in the case.

(5) Weight and credibility. This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

SECTION 5. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 105. Limited Admissibility.

(1) When evidence which is admissible as to one (1) party or for one (1) purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and admonish the jury accordingly. In the absence of such a request, the admission of the evidence by the trial judge without limitation shall not be a ground for complaint on appeal, except under the palpable error rule.

(2) When evidence described in subsection (1) above is excluded, such exclusion shall not be a ground for complaint on appeal, except under the palpable error rule, unless the proponent expressly offers the evidence for its proper purpose or limits the offer of proof to the party against whom the evidence is properly admissible.

SECTION 6. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 106. Remainder of or Related Writing or Recorded Statements.

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

SECTION 7. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 107. Miscellaneous Provisions.

(1) Parol evidence. The provisions of the Kentucky Rules of Evidence shall not operate to repeal, modify, or affect the Parol Evidence Rule.

(2) Effective date. The Kentucky Rules of Evidence shall take effect on the first day of July, 1992. They shall apply to all civil and criminal actions and proceedings originally brought on for trial upon or after that date and to pretrial motions or matters originally presented to the trial court for decision upon or after that date if a determination of such motions or matters requires an application of evidence principles; provided, however, that no evidence shall be admitted against a criminal defendant in proof of a crime committed prior to July 1, 1992, unless that evidence would have been admissible under evidence principles in existence prior to the adoption of these rules.

SECTION 8. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 201. Judicial Notice of Adjudicative Facts.

(1) Scope of rule. This rule governs only judicial notice of adjudicative facts.

(2) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either:

(a) Generally known within the county from which the jurors are drawn, or, in a non-jury matter, the county in which the venue of the action is fixed; or

(b) Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(3) When discretionary. A court may take judicial notice, whether requested or not.

(4) When mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

(5) Opportunity to be heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(6) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

(7) Instructing the jury. The court shall instruct the jury to accept as conclusive any fact judicially noticed.

SECTION 9. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 301. Presumptions in General in Civil Actions and Proceedings.

In all civil actions and proceedings when not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

SECTION 10. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 302. Applicability of Federal Law or the Law of Other States in Civil Actions and Proceedings.

In civil actions and proceedings, the effect of a presumption respecting a fact which is an element of a claim or defense as to which the federal law or the law of another state supplies the rule of decision is determined in accordance with federal law or the law of the other state.

SECTION 11. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 401. Definition of "Relevant Evidence."

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

SECTION 12. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 402. General Rule of Relevancy.

All relevant evidence is admissible, except as otherwise provided by the Constitutions of the United States and the Commonwealth of Kentucky by Acts of the General Assembly of the Commonwealth of Kentucky, by these rules, or by other rules adopted by the Supreme Court of Kentucky. Evidence which is not relevant is not admissible.

SECTION 13. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste or Time.

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

SECTION 14. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 404. Character Evidence and Evidence of Other Crimes.

(1) Character evidence generally. Evidence of a persons character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(a) Character of accused. Evidence of a pertinent trait of charcter or of general moral character offered by an accused, or by the prosecution to rebut the same;

(b) Character of victim generally. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, other than in a prosecution for criminal sexual conduct, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(c) Character of witnesses. Evidence of the character of witnesses, as provided in Rules 607, 608, and 609.

(2) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible:

(a) If offered for some other purpose, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident; or

(b) If so inextricably intertwined with other evidence essential to the case that separation of the two (2) could not be accomplished without serious adverse effect on the offering party.

(3) Notice requirement. In a criminal case, if the prosecution intends to introduce evidence pursuant to subsection (2) of this rule as a part of its case in chief, it shall give reasonable pre-trial notice to the defendant of its intention to offer such evidence. Upon failure of the prosecution to give such notice the

court may exclude the evidence offered under subsection (2) or for good cause shown may excuse the failure to give such notice and grant the defendant a continuance or such other remedy as is necessary to avoid unfair prejudice caused by such failure.

SECTION 15. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 405. Methods of Proving Character.

(1) Reputation or opinion. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to general reputation in the community or by testimony in the form of personal opinion.

(2) Inquiry on cross-examination. On cross examination of a character witness, it is proper to inquire if the witness has heard of or knows about relevant specific instances of conduct. However, no specific instance of conduct may be the subject of inquiry under this provision unless the cross-examiner has a factual basis for the subject matter of the inquiry.

(3) Specific instances of conduct. In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

SECTION 16. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 406. Habit; Routine Practice.

Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

SECTION 17. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 407. Subsequent Remedial Measures.

When, after an event, measures are taken which, if taken previously, would have made an injury or harm allegedly caused by the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

SECTION 18. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 408. Compromise and Offers to Compromise.

Evidence of:

(1) Furnishing or offering or promising to furnish; or

(2) Accepting or offering or promising to accept a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

SECTION 19. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 409. Payment of Medical and Similar Expenses.

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

SECTION 20. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements.

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

(1) A plea of guilty which was later withdrawn;

(2) A plea of nolo contendere;

(3) Any statement made in the course of formal plea proceedings, under either state procedures or Rule 11 of the Federal Rules of Criminal Procedure, regarding either of the foregoing pleas; or

(4) Any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn. However, such a statement is admissible:

(a) In any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought in fairness be considered contemporaneously with it; or

(b) In a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

SECTION 21. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 411. Liability Insurance.

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

SECTION 22. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 412. Rape and Similar Cases; Admissibility of Victim's Character and Behavior.

(1) Reputation or opinion. Notwithstanding any other provision of law, in a criminal prosecution under KRS Chapter 510 or for attempt or conspiracy to commit an offense defined in KRS Chapter 510, reputation or opinion evidence related to the sexual behavior of an alleged victim is not admissible.

(2) Particular acts and other evidence. Notwithstanding any other provision of law, in a criminal prosecution under KRS Chapter 510 or for attempt or conspiracy to commit an offense defined in KRS Chapter 510, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence is admitted in accordance with subsection (3) and is:

(a) Evidence of past sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen or injury;

(b) Evidence of past sexual behavior with the accused and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which an offense is alleged; or

(c) Any other evidence directly pertaining to the offense charged.

(3) (a) Motion to offer evidence. If the person accused of committing an offense described above intends to offer under subsection (2) evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than fifteen (15) days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case.

(b) Hearing on motion. The motion described in the preceding paragraph shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subsection (2), the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. Notwithstanding subsection (2) of Rule 104, if the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such conditiact is fulfilled and shall determine such issue.

(c) Findings and order. If the court determines on the basis of the hearing described in the preceding paragraph that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifics evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

(4) Definition. For purposes of this rule, the term "past sexual behavior" means sexual behavior other than the sexual behavior with respect to which the offense being tried is alleged to have occurred.

SECTION 23. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 501. General Rule.

Except as otherwise provided by Constitution or statute or by these or other rules promulgated by the Supreme Court of Kentucky, no person has a privilege to:

(1) Refuse to be a witness;

(2) Refuse to disclose any matter;

(3) Refuse to produce any object or writing; or

(4) Prevent another from being a witness or disclosing any matter or producing any object or writing.

SECTION 24. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 502. Involuntary Disclosure of Confidential Communications.

A person to whom disclosure is neither intended nor foreseen, who legally obtains a confidential communication, may testify, and may be compelled to testify, to the contents of the communication.

SECTION 25. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 503. Lawyer-Client Privilege.

(1) Definitions. As used in this rule:

(a) "Client" means a person, including a public officer, corporation, association, or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services from the lawyer.

(b) "Representative of the client" means:

1. A person having authority to obtain professional legal services, or to act on advice thereby rendered on behalf of the client; or

2. Any employee or representative of the client who makes or receives a confidential communication:

(i) In the course and scope of his or her employment;

(ii) Concerning the subject matter of his or her employment; and

(iii) To effectuate legal representation for the client.

(c) "Lawyer" means a person authorized, or reasonably believed by the client to be authorized to engage in the practice of law in any state or nation.

(d) "Representative of the lawyer" means a person employed by the lawyer to assist the lawyer in rendering professional legal services.

(e) A communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

(2) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made for the purpose of facilitating the rendition of professional legal services to the client:

(a) Between the client or a representative of the client and the client's lawyer or a representative of the lawyer;

(b) Between the lawyer and a representative of the lawyer;

(c) By the client or a representative of the client or the client's lawyer or a representative of the lawyer representing another party in a pending action and concerning a matter of common interest therein;

(d) Between representatives of the client or between the client and a representative of the client; or

(e) Among lawyers and their representatives representing the same client. This rule is subject to the provisions of KRE 502.

(3) Who may claim the privilege. The privilege may be claimed by the client, the client's guardian or conservator, the personal representative of a deceased client, or the successor, trustee, or similar representative of a corporation, association, or other organization, whether or not in existence. The person who was the lawyer or the lawyer's representative at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the client.

(4) Exceptions. There is no privilege under this rule:

(a) Furtherance of crime or fraud. If the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud;

(b) Claimants through same deceased client. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by transaction inter vivos;

(c) Breach of duty by a lawyer or client. As to a communication relevant to an issue of breach of duty by a lawyer to the client or by a client to the lawyer;

(d) Document attested by a lawyer. As to a communication relevant to an issue concerning an attested document to which the lawyer is an attesting witness; and

(e) Joint Clients. As to a communication relevant to a matter of common interest between or among two (2) or more clients if the communication was made by any of them to a lawyer retained or consulted in common, when offered in an action between or among any of the clients.

SECTION 26. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 504. Husband-Wife Privilege.

(1) Spousal testimony in criminal proceedings. The spouse of an accused in a criminal proceeding has a privilege to refuse to testify against the accused spouse as to events occurring after the date of their marriage.

(2) Exceptions. There is no privilege under this rule:

(a) In any criminal proceeding in which sufficient evidence is introduced to support a finding that the spouses conspired or acted jointly in the commission of the crime charged; or

(b) In any proceeding in which one (1) spouse is charged with wrongful conduct against the person or property of:

1. The other;

2. A minor child of either;

3. An individual residing in the household of either; or

4. A third person if the wrongful conduct is committed in the course of wrongful conduct against any of the individuals previously named in this sentence. The court may refuse to allow the privilege in any other proceeding if the interests of a minor child of either spouse may be adversely affected.

SECTION 27. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 505. Religious Privilege.

(1) Definitions. As used in this rule:

(a) A "clergyman" is a minister, priest, rabbi, accredited Christian Science Practitioner, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting him.

(b) A communication is "confidential" if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

(2) General rule of privilege. A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication between the person and a clergyman in his professional character as spiritual adviser. This rule is subject to KRE 502.

(3) Who may claim the privilege. The privilege may be claimed by the person, by his guardian or conservator, or by his personal representative if he is deceased. The person who was the clergyman at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the communicant.

SECTION 28. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 506. Counselor-Client Privilege.

(1) Definitions. As used in this rule:

(a) A "counselor" includes:

1. A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school or this state;

2. A clinical social worker, licensed by the state board of examiners of social work and holding a certificate of qualification for the independent practice of clinical social work;

3. A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault;

4. A drug abuse counselor, who is a person employed by a drug abuse and education center licensed by the Kentucky Cabinet for Human Resources pursuant to KRS Chapter 210; and

5. An alcohol abuse counselor, who is a person employed by a licensed hospital, or treatment facility licensed by the Kentucky Cabinet for Human Resources pursuant to KRS Chapter 222.

(b) A "client" is a person who consults or is interviewed by a counselor for the purpose of obtaining professional services from the counselor.

(c) A communication is "confidential" if not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(2) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family. This rule is subject to KRE 502.

(3) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(4) Exceptions. There is no privilege under this rule for any relevant communication:

(a) If the client is asserting his physical, mental or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(b) If the judge finds:

1. That the substance of the communication is relevant to an essential issue in the case;

2. That there are no available alternate means to obtain the substantial equivalent of the communication; and

3. That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

SECTION 29. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 507. PsychotherapistPatient Privilege.

(1) Definitions. As used in this rule:

(a) A "patient" is a person who, for the purpose of securing diagnosis or treatment of his or her mental condition, consults a psychotherapist.

(b) A "psychotherapist" is:

1. A person licensed by the state of Kentucky, or by the laws of another state, to practice medicine, or reasonably believed by the patient to be licensed to practice medicine, while engaged in the diagnosis or treatment of a mental condition; or

2. A person licensed or certified by the state of Kentucky, or by the laws of another state, as a psychologist, or a person reasonably believed by the patient to be a licensed or certified psychologist.

(c) A communication is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination or interview, or persons reasonably necessary for the transmission of the communication, or persons who are present during the communication at the direction of the psychotherapist, including members of the patient's family.

(d) "Authorized representative" means a person empowered by the patient to assert the privilege granted by this rule and, until given permission by the patient to make disclosure, any person whose communications are made privileged by this rule.

(2) General rule of privilege. A patient, or his authorized representative, has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, made for the purpose of diagnosis or treatment of his mental condition, between the patient, the patient's psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the psychotherapist, including members of the patient's family. This rule is subject to KRE 502.

(3) Exceptions. There is no privilege under this rule for any relevant communications under this section:

(a) In proceedings to hospitalize the patient for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(b) If a judge finds that a patient, after having been informed that the communications would not be privileged, has made communications to a psychotherapist in the course of an examination ordered by the court, provided that such communications shall be admissible only on issues involving the patient's mental condition; or

(c) If the patient is asserting his mental condition as an element of a claim or defense, or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

SECTION 30. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 508. Identity of Informer.

(1) General Rule of Privilege. The Commonwealth of Kentucky and its sister states and the United States have a privilege to refuse to disclose the identity of a person who has furnished information relating to or assisting in an investigation of a possible violation of a law to a law enforcement officer or member of a legislative committee or its staff conducting an investigation.

(2) Who may claim. The privilege may be claimed by an appropriate representative of the public entity to which the information was furnished.

(3) Exceptions:

(a) Voluntary disclosure; Informer as a witness. No privilege exists under this rule if the identity of the informer or his interest in the subject matter of his communication has been disclosed by the holder of the privilege or by the informer's own action, or if the informer appears as a witness for the state. Disclosure within a law enforcement agency or legislative committee for a proper purpose does not waive the privilege.

(b) Testimony on relevant issue. If it appears that an informer may be able to give relevant testimony and the public entity invokes the privilege, the court shall give the public entity any opportunity to make an in camera showing in support of the claim of privilege. The showing will ordinarily be in the form of affidavits, but the court may direct that testimony be taken if it finds that the matter cannot be resolved satisfactorily upon affidavits. If the court finds that there is a reasonable probability that the informer can give relevant testimony, and the public entity elects not to disclose this identity, in criminal cases the court on motion of the defendant or on its own motion shall grant appropriate relief, which may include one (1) or more of the following:

1. Requiring the prosecuting attorney to comply;

2. Granting the defendant additional time or a continuance;

3. Relieving the defendant from making disclosures otherwise required of him;

4. Prohibiting the prosecuting attorney from introducing specified evidence; and

5. Dismissing charges.

In civil cases, the court may make any order the interests of justice require. Evidence presented to the court shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed without consent of the informed public entity.

SECTION 31. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 509. Waiver of Privilege by Voluntary Disclosure.

A person upon whom these rules confer a privilege against disclosure waives the privilege if he or his predecessor while holder of the privilege voluntarily discloses or consents to disclosure of any significant part of the privilege matter. This rule does not apply if the disclosure itself is privileged. Disclosure of communications for the purpose of receiving third-party payment for professional services does not waive any privilege with respect to such communications.

SECTION 32. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 510. Privileged Matter Disclosed Under Compulsion or Without Opportunity to Claim Privilege.

A claim of privilege is not defeated by a disclosure which was:

(1) Compelled erroneously; or

(2) Made without opportunity to claim the privilege.

SECTION 33. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 511. Comment Upon or Inference from Claim of Privilege; Instruction.

(1) Comment or inference not permitted. The claim of a privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by judge or counsel. No inference may be drawn therefrom.

(2) Claiming privilege without knowledge of jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the assertion of claims of privilege without the knowledge or the jury.

(3) Jury instruction. Upon request, any party against whom the jury might draw an adverse inference from a claim of privilege is entitled to an instruction that no inference may be drawn therefrom.

SECTION 34. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 601. Competency.

(1) General. Every person is competent to be a witness except as otherwise provided in these rules or by statute.

(2) Minimal qualifications. A person is disqualified to testify as a witness if the trial court determines that he:

(a) Lacked the capacity to perceive accurately the matters about which he proposes to testify;

(b) Lacks the capacity to recollect facts;

(c) Lacks the capacity to express himself so as to be understood, either directly or through an interpreter; or

(d) Lacks the capacity to understand the obligation of a witness to tell the truth.

SECTION 35. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 602 Lack of Personal Knowledge.

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

SECTION 36. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 603. Oath or Affirmation.

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

SECTION 37. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 604. Interpreters.

An interpreter is subject to the provisions of these rules relating to qualifications of an expert and the administration of an oath or affirmation to make a true translation.

SECTION 38. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 605. Competency of Judge as Witness.

The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

SECTION 39. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 606. Competency of Juror as Witness.

A member of the jury may not testify as a witness before that jury in the trial of the case in which the juror is sitting. No objection need be made in order to preserve the point.

SECTION 40. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 607. Who May Impeach.

The credibility of a witness may be attacked by any party, including the party calling the witness.

SECTION 41. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 608. Evidence of Character and Conduct of Witness.

(1) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations:

(a) The evidence may refer only to character for truthfulness or untruthfulness; and

(b) Evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(2) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness:

(a) Concerning the witness' character for truthfulness or untruthfulness; or

(b) Concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified. No specific instance of conduct of a witness may be the subject of inquiry under this provision unless the cross-examiner has a factual basis for the subject matter of his inquiry.

SECTION 42. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 609. Impeachment by Evidence of Conviction of Crime.

(1) General rule. For the purpose of reflecting upon the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted if elicited from the witness or established by public record if denied by the witness, but only if:

(a) The crime was punishable by death or imprisonment for one (1) year or more under the law under which the witness was convicted, or the crime involved dishonesty or false statement, regardless of the punishment; and

(b) The court determines that the probative value of admitting this evidence on the issue of credibility outweighs its prejudicial effect on the opposing party.

The identity of the crime upon which conviction was based may not be disclosed upon cross-examination unless the witness has denied the existence of the conviction. However, a witness against whom a conviction is admitted under this provision may choose to disclose the identity of the crime upon which the conviction is based.

(2) Time limit. Evidence of a conviction under this rule is not admissible if a period of more than ten (10) years has elapsed since the date of the conviction unless the court determines that the probative value of the conviction substantially outweighs its prejudicial effect.

(3) Effect of pardon, annulment, or certificate of rehabilitation. Evidence of a conviction is not admissible under this rule if:

(a) The conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime which was punishable by death or imprisonment of one (1) year or more; or

(b) The conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(4) Juvenile adjudications. Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(5) Pendency of appeal. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

SECTION 43. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 610. Religious Beliefs or Opinions.

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

SECTION 44. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 611. Mode and Order of Interrogation and Presentation.

(1) Control by court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

(a) Make the interrogation and presentation effective for the ascertainment of the truth;

(b) Avoid needless consumption of time; and

(c) Protect witnesses from harassment or undue embarrassment.

(2) Scope of cross-examination. A witness may be cross-examined on any matter relevant to any issue in the case, including credibility. In the interests of justice, the trial court may limit cross-examination with respect to matters not testified to on direct examination.

(3) Leading questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination, but only upon the subject matter of the direct examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

SECTION 45. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 612. Writing Used to Refresh Memory.

Except as otherwise provided in the Kentucky Rules of Criminal Procedure, if a witness uses a writing during the course of testimony for the purpose of refreshing memory, an adverse party is entitled to have the writing produced at the trial or hearing or at the taking of a deposition, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony, the court shall examine the writing in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal.

SECTION 46. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 613. Prior Statements of Witnesses.

(1) Examining witness concerning prior statement. In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

(2) Extrinsic evidence of prior inconsistent statement of witness. Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in rule 801-A.

SECTION 47. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 614. Calling and Interrogation of Witnesses by Court.

(1) Calling by court. The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(2) Interrogation by court. The court may interrogate witnesses, whether called by itself or by a party.

(3) Interrogation by juror. A juror may be permitted to address questions to a witness by submitting them in writing to the judge who will decide at his discretion whether or not to submit the questions to the witness for answer.

SECTION 48. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 615. Exclusion of Witnesses.

At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses and it may make the order on its own motion. This rule does not authorize exclusion of:

(1) A party who is a natural person;

(2) An officer or employee of a party which is not a natural person designated as its representative by its attorney; or

(3) A person whose presence is shown by a party to be essential to the presentation of the party's cause.

SECTION 49. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 701. Opinion Testimony by Lay Witnesses.

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are:

(1) Rationally based on the perception of the witness; and

(2) Helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

SECTION 50. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 702. Testimony by Experts.

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

SECTION 51. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 703. Bases of Opinion Testimony by Experts.

(1) The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

(2) If determined to be trustworthy, necessary to illuminate testimony, and unprivileged, facts or data relied upon by an expert pursuant to subsection (1) may at the discretion of the court be disclosed to the jury even though such facts or data are not admissible in evidence. Upon request the court shall admonish the jury to use such facts or data only for the purpose of evaluating the validity and probative value of the expert's opinion or inference.

(3) Nothing in this rule is intended to limit the right of an opposing party to cross-examine an expert witness or to test the basis of an expert's opinion or inference.

SECTION 52. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 704. Opinion on Ultimate Issue.

Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

SECTION 53. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion.

(1) General. The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

(2) Voir dire examination. Prior to the expert giving his opinion or inference, a party against whom the opinion or inference is offered may conduct outside the presence of the jury a voir dire examination of the witness directed to the underlying facts or data for the opinion or inference. If this examination produces evidence indicating that the expert lacks a sufficient basis for the opinion or inference, the trial judge shall exclude the expert's testimony unless the offering party establishes sufficient underlying facts or data for the opinion or inference.

SECTION 54. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 706. Court Appointed Experts.

(1) Appointment. The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may require the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection. An expert witness shall be be appointed by the court unless the witness consents to act. A witness so appointed shall be informed of the witness, duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of the witness' findings, if any; the witness' deposition may be taken by any party; and the witness may be called to testify by the court or any party. The witness shall be subject to cross-examination by each party, including a party calling the witness.

(2) Compensation. Expert witnesses so appointed are entitled to reasonable compensation in whatever sum the court may allow. Except as otherwise provided by law, the compensation shall be paid by the parties in such proportions and at such time as the court directs, and thereafter charged in like manner as other costs.

(3) Disclosure of appointment. In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that the court appointed the expert witness.

(4) Parties' expert of own selection. Nothing in this rule limits the parties in calling expert witnesses of their own selection.

SECTION 55. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 801. Definitions.

(1) Statement. A "statement" is:

(a) An oral or written assertion; or

(b) Nonverbal conduct of a person, if it is intended by the person as an assertion.

(2) Declarant. A "declarant" is a person who makes a statement.

(3) Hearsay. "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

SECTION 56. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 801-A. Prior Statements of Witnesses and Admissions.

(1) Prior statements of witnesses. A statement is not excluded by the hearsay rule, even though the declarant is available as a witness, if the declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is:

(a) Inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition;

(b) Consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive; or

(c) One of identification of a person made after perceiving the person.

(2) Admissions of parties. A statement is not excluded by the hearsay rule, even though the declarant is available as a witness, if the statement is offered against a party and is:

(a) The party's own statement, in either an individual or a representative capacity;

(b) A statement of which the party has manifested an adoption or belief in its truth;

(c) A statement by a person authorized by the party to make a statement concerning the subject;

(d) A statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship; or

(e) A statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

(3) Admission by privity:

(a) Wrongful death. A statement by the deceased is not excluded by the hearsay rule when offered as evidence against the plaintiff in an action for wrongful death of the deceased.

(b) Predecessors in interest. Even though the declarant is available as a witness, when a right, title or interest in any property or claim asserted by a party to a civil action requires a determination that a right, title, or interest existed in the declarant, evidence of a statement made by the declarant during the time the party now claims the declarant was the holder of the right, title, or interest is not excluded by the hearsay rule when offered against the party if the evidence would be admissible if offered against the declarant in an action involving that right, title, or interest.

(c) Predecessors in litigation. Even though the declarant is available as a witness, when the liability, obligation, or duty of a party to a civil action is based in whole or in part upon the liability, obligation or duty of the declarant, or when the claim or right asserted by a party to a civil action is barred or diminished by a breach of duty by the declarant, evidence of a statement made by the declarant is not excluded by the hearsay rule when offered against the party if the evidence would be admissible against the declarant in an action involving that liability, obligation, duty or breach of duty.

SECTION 57. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 802. Hearsay Rule.

Hearsay is not admissible except as provided by these rules or by other rules of the Supreme Court of Kentucky or by Acts of the General Assembly.

SECTION 58. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 803. Hearsay Exceptions: Availability of Declarant Immaterial.

The following are not excluded by the hearsay rules, even though the declarant is available as a witness:

(1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited Utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical treatment or diagnosis in connection with treatment. Statements made for purposes of treatment or diagnosis in connection with treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to treatment or diagnosis in connection with treatment.

(5) Recorded recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not be received as an exhibit unless offered by an adverse party.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession,, occupation, and calling of every kind, whether or not conducted for profit.

(a) Foundation exemptions. A custodian or other qualified witness, as required above, is unnecessary when the evidence offered under this provision consists of medical charts or records of a hospital that has elected to proceed under the provisions of KRS 422.300 to 422.330, business records which satisfy the requirements of Rule 902(11), or some other record which is subject to a statutory exemption from normal foundation requirements.

(b) Opinion or diagnosis. No evidence in the form of an opinion or diagnosis is admissible under this subsection unless such opinion or diagnosis would be admissible under Article VII of these rules if the person whose opinion or diagnosis is recorded were to testify to the opinion or diagnosis directly.

(7) Absence of entry in records kept in accordance with the provisions of subsection (6). Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of subsection (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or other data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public records and reports. Unless the sources of information or other circumstances indicate lack of trustworthiness, records, reports, statements, or other data compilations in any form of a public office or agency setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law. The following are not within this exception to the hearsay rule:

(a) Investigative reports by police and other law enforcement personnel, except when offered by an accused in a criminal case;

(b) Investigative reports prepared by or for a government, a public office, or an agency when offered by it in a case in which it is a party; and

(c) Factual findings offered by the government in criminal cases.

(9) Records of vital statistics. Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements or law.

(10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data complication, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of religious organizations. Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationships by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, baptismal, and similar certificates. Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices or a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family records. Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of documents affecting an interest in property. The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.

(15) Statements in documents affecting an interest in property. A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in ancient documents. Statements in a document in existence twenty (20) years or more the authenticity of which is established.,

(17) Market reports, commercial publications. Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) Reputation concerning personal or family history. Reputation among members of a person's family by blood, adoption, or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his personal or family history.

(20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) Reputation as to character. Reputation of a person's character among associates or in the community.

(22) Judgment of previous conviction. Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment under the law defining the crime, to prove any fact essential to sustain the judgment, but not including, when offered by the prosecution in a criminal case for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgment as to personal, family, or general history, or boundaries. Judgments as proof of matters of personal, family, or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

SECTION 59. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 804. Hearsay Exceptions: Declarant Unavailable.

(1) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant:

(a) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement;

(b) Persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so;

(c) Testifies to a lack of memory of the subject matter of the declarant's statement;

(d) Is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(e) Is absent from the hearing and the proponent of his statement has been unable to procure the declarant's attendance by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(2) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(a) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(b) Statement under belief of impending death. In a criminal prosecution or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be his impending death.

(c) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(d) Statements of personal or family history.

1. A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or

2. A statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(e) Residual exception. A statement not specifically covered by any of the foregoing exceptions or any of the exceptions contained in Rule 803 but having equivalent circumstantial guarantees of trustworthiness, if the court determines that:

1. The statement is offered as evidence of a material fact;

2. The statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

3. The general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant.

SECTION 60. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 805. Hearsay Within Hearsay.

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

SECTION 61. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 806. Attacking and Supporting Credibility of Declarant.

When a hearsay statement has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with the declarant's hearsay statement, is not subject to any requirement that the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine the declarant on the statement as if under cross-examination.

SECTION 62. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 901. Requirement of Authentication or Identification.

(1) General provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(2) Illustrations. By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

(a) Testimony of witness with knowledge. Testimony that a matter is what it is claimed to be.

(b) Nonexpert testimony on handwriting. Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for the purposes of litigation.

(c) Comparison by trier or expert witness. Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated.

(d) Distinctive characteristics and the like. Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.

(e) Voice identification. Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.

(f) Telephone conversations. Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular place or business if:

1. In the case of a person, circumstances, including self-identification, show the person answering to be the one called; or

2. In the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the phone.

(g) Public records or reports. Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form is from the public office where items of this nature are kept.

(h) Ancient documents or data compilation. Evidence that a document or data compilation, in any form:

1. Is in such condition as to create no suspicion concerning its authenticity;

2. Was in a place where it, if authentic, would likely be; and

3. Has been in existence twenty (20) years or more at the time it is offered.

(i) Process or system. Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.

(j) Methods provided by statute or rule. Any method of authentication or identification provided by Act of the General Assembly or by rule prescribed by the Supreme Court of Kentucky.

SECTION 63. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 902. Self-Authentication.

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) Domestic public documents under seal. A document bearing a seal purporting to be that of the United States, or of any state, district, Commonwealth, territory or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

(2) Domestic public documents not under seal. A document purporting to bear the signature in the official capacity of an officer or employee of any entity included in subsection (1) of this section, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) Foreign public documents. A document purporting to be executed, or attested in an official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature of official position:

(a) Of the executing or attesting person; or

(b) Of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation.

A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States, If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) Official records. An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by an official having the legal custody of the record. If the office in which the record is kept is outside the Commonwealth of Kentucky, the attested copy shall be accompanied by a certificate that the official attesting to the accuracy of the copy has the authority to do so. The certificate accompanying domestic records (those from offices within the territorial jurisdiction of the United States) may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court; or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of office. The certificate accompanying foreign records (those from offices outside the territorial jurisdiction of the United States) may be made by a secretary of embassy or legation, consul-general, consul, vice-consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of office. A written statement prepared by an official having the custody of a record that after dilligent search no record or entry of a specified tenor is found to exist in the records of the office, complying with the requirements set out above, is admissible as evidence that the records of the office contain no such record of entry.

(5) Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.

(6) Books, newspapers and periodicals. Printed materials purporting to be books, newspapers or periodicals.

(7) Trade inscriptions and the like. Inscriptions, signs, tags or labels purporting to have been affixed in the course of business and indicating ownership, control or origin.

(8) Acknowledged documents. Documents accompanied by a certificate of acknowledgement executed in the manner provided by law before a notary public or other officer authorized by law to take acknowledgements.

(9) Commercial paper and related documents. Commercial paper, signatures thereon, and documents relating thereto to the extent provided by the general commercial law.

(10) Documents which self-authenticate by the provisions of statutes or other rules of evidence. Any

signature, document, or other matter which is declared to be presumptively genuine by Act of Congress or the General Assembly of Kentucky or by rule of the Supreme Court of Kentucky.

(11) Business records. (a) Unless the sources of information or other circumstances indicate lack of trustworthiness, the original or a duplicate of a record of regularly conducted activity within the scope of Rule 803(6) or 803(7), which the custodian thereof certifies:

1. Was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

2. Is kept in the court of the regularly conducted activity; and

3. Was made by the regularly conducted activity as a regular practice.

(b) A record so certified is not self-authenticating under this subsection unless the proponent makes an intention to offer it known to the adverse party and makes it available for inspection sufficiently in advance of its offer in evidence to provide the adverse party with a fair opportunity to challenge it.

(c) As used in this subsection, "certifies" means, with respect to a domestic record, a written declaration under oath subject to the penalty of perjury, and, with respect to a foreign record, a written declaration which, if falsely made, would subject the maker to criminal penalty under the laws of that country. The certificate relating to a foreign record must be accompanied by a final certification as to the genuineness of the signature and official position:

1. Of the individual executing the certificate; or

2. Of any foreign official who certifies the genuineness of signature and official position of the executing individual or is the last in a chain of certificates that collectively certify the genuineness of signature and official position of the executing individual.

A final certification must be made by a secretary of embassy or legation, consul-general, consul, vice-consul, or consular agent or by an officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of office.

SECTION 64. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 903. Subscribing Witness' Testimony Unnecessary.

The testimony of a subscribing witness if not necessary to authenticate a writing unless required by the laws of the jurisdiction whose laws govern the validity of the writing.

SECTION 65. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1001. Definitions.

For purposes of this article the following definitions are applicable:

(1) Writings and recordings. "Writings" and "recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

(2) Photographs. "Photographs" include still photographs, X-ray films, video tapes, and motion pictures.

(3) Original. An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original."

(4) Duplicate. A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent technique which accurately reproduces the original.

SECTION 66. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1002. Requirement of Original.

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules, in other rules adopted by the Kentucky Supreme Court, or by statute.

SECTION 67. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1003. Admissibility of Duplicates.

A duplicate is admissible to the same extent as an original unless:

(1) A genuine question is raised as to the authenticity of the original; or

(2) In the circumstances it would be unfair to admit the duplicate in lieu of the original.

SECTION 68. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1004. Admissibility of Other Evidence of Contents.

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if:

(1) Originals lost or destroyed. All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith;

(2) Original not obtainable. No original can be obtained by any available judicial process or procedure;

(3) Original in possession of opponent. At a time when an original was under the control of the party against whom offered, that party was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and that party does not produce the original at the hearing; or

(4) Collateral matters. The writing, recording, or photograph is not closely related to a controlling issue.

SECTION 69. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1005. Public Records.

The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed with a governmental agency, either federal, state, county, or municipal, in a place where official records or documents are ordinarily filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct in accordance with Rule 902 or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

SECTION 70. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1006. Summaries.

The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. A party intending to use such a summary must give timely written notice of his intention to use the summary, proof of which shall be filed with the court. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at reasonable time and place. The court may order that they be produced in court.

SECTION 71. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1007. Testimony or Written Admission of Party.

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by that party's written admission, without accounting for the nonproduction of the original.

SECTION 72. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1008. Functions of Court and Jury.

When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of Rule 104. However, when an issue is raised:

(1) Whether the asserted writing ever existed;

(2) Whether another writing, recording, or photograph produced at the trial is the original;

(3) Whether other evidence of contents correctly reflects the contents, the issue is for the trier to fact to determine as in the case of other issues of fact.

SECTION 73. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1101. Applicability of Rules.

(1) Courts. These rules apply to all the courts of this Commonwealth in the actions, cases, and proceedings and to the extent hereinafter set forth.

(2) Proceedings generally. These rules apply generally to civil actions and proceedings and to criminal cases and proceedings, except as provided in subsection (4) of this rule.

(3) Rules on privileges. The rules with respect to privileges apply at all stages of all actions, cases, and proceedings.

(4) Rules inapplicable. The rules (other than with respect to privileges) do not apply in the following situations:

(a) Preliminary questions of fact. The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Rule 104.

(b) Grand jury. Proceedings before grand juries.

(c) Small claims. Proceedings before the small claims division of the district courts.

(d) Summary contempt proceedings. Contempt proceedings in which the judge is authorized to act summarily.

(e) Miscellaneous proceedings. Proceedings for extradition or rendition; preliminary hearings in criminal cases; sentencing by a judge; granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; and proceedings with respect to release on bail or otherwise.

SECTION 74. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1102. Amendments.

(1) Supreme Court. The Supreme Court of Kentucky shall have the power to prescribe amendments or additions to the Kentucky Rules of Evidence. Such amendments or additions shall not take effect until they have been reported to the Kentucky General Assembly by the Chief Justice of the Supreme Court at or after the beginning of a regular session of the General Assembly but not later than the first day of March, and until the adjournment of that regular session of the General Assembly; but if the General Assembly within that time shall by resolution disapprove any amendment or addition so reported it shall not take effect. The effective date of any amendment or addition so reported may be deferred by the General Assembly to a later date or until approved by the General Assembly.

(2) General Assembly. The General Assembly may amend any proposal reported by the Supreme Court pursuant to subsection (1) of this rule and may adopt amendments or additions to the Kentucky Rules of Evidence not reported to the General Assembly by the Supreme Court. The General Assembly may not adopt amendments or additions that constitute rules of practice and procedure under Section 116 of the Constitution of Kentucky.

(3) Review of Proposals for Change. Neither the Supreme Court nor the General Assembly should undertake to amend or add to the Kentucky Rules of Evidence without first obtaining a review of proposed amendments or additions from the Evidence Rules Review Commission described in Rule 1103.

SECTION 75. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1103. Evidence Rules Review Commission.

(1) The Chief Justice of the Supreme Court shall serve as chairman of a permanent Evidence Rules Review Commission which shall consist of the Chief Justice, one (1) additional member of the judiciary appointed by the Chief Justice, the chairman of the Senate Judiciary Committee, the chairman of the House Judiciary Committee, and five (5) members of the Kentucky bar appointed to four (4) year terms by the President of the Kentucky Bar Association.

(2) The Evidence Rules Review Commission shall meet at the call of the Chief Justice for the purpose of reviewing proposals for amendment or addition to the Kentucky Rules of Evidence, as requested by the Supreme Court or General Assembly pursuant to Rule 1102. The Commission shall act promptly to assist

the Supreme Court or General Assembly and shall perform its review function in furtherance of the ideals and objectives described in Rule 102.

SECTION 76. A NEW SECTION OF KRS CHAPTER 422A IS CREATED TO READ AS FOLLOWS:

Rule 1104. Use of Official Commentary.

The commentary accompanying the Kentucky Rules of Evidence may be used as an aid in construing the provisions of the Rules.

Section 77. KRS 421.210 is amended to read as follows:

(1) [~~In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that in an action for absolute divorce or divorce from bed and board, either or both of them may testify concerning any matter involved in the action, including questions of property, and provided further, that neither may be compelled to testify for or against the other.~~

~~(2) Subject to the provisions of subsection (6) of this section, no person shall testify for himself concerning any verbal statement of, or any transaction with, or any act done or omitted to be done by an infant under fourteen (14) years of age, or by one who is of unsound mind or dead when the testimony is offered to be given except for the purpose, and to the extent, of affecting one who is living, and who, when over fourteen (14) years of age and of sound mind, heard such statement, or was present when such transaction took place, or when such act was done or omitted, and except in actions for personal injury, death or damage to property by negligence or tortious acts, unless:~~

~~(a) The infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or~~

~~(b) The person of unsound mind shall, when of sound mind, have testified against such person, with reference thereto; or~~

~~(c) The decedent, or a representative of, or someone interested in, his estate, shall have testified against such person, with reference thereto; or~~

~~(d) An agent of the decedent or person of unsound mind, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify, with reference thereto.~~

~~(3)~~] No person shall testify for himself, in chief, in an ordinary action, after introducing other testimony for himself, in chief; nor in an equitable action, after taking other testimony for himself, in chief.

(2) The preceding provision of this section shall not apply to affidavits for provisional remedies, or to affidavits of claimants against the estates of deceased or insolvent persons, or affect the competency of attesting witnesses of instruments which are required by law to be attested.

[~~(4) No attorney shall testify concerning a communication made to him, in his professional character, by his client, or his advice thereon, without the client's consent; nor shall an ordained minister, priest, rabbi or accredited practitioner of an established church or religious organization be required to testify in any civil or criminal case or proceedings preliminary thereto, or in any administrative proceeding, concerning any information confidentially communicated to him in his professional capacity under such circumstances that to disclose the information would violate a sacred or moral trust, unless the person making the confidential communication waives such privilege herein provided.~~

~~(5) If the right of a person to testify for himself be founded upon the fact that one who is dead or of unsound mind has testified against him, the testimony of such person shall be confined to the facts or transactions to which the adverse testimony related.~~

~~(6) A person may testify for himself as to the correctness of original entries made by him against persons who are under no disability — other than infancy — in an accounting, according to the usual course of business though the person against whom they were made may have died or have become of unsound mind; but no person shall testify for himself concerning entries in a book, or the contents or purport of any writing, under the control of himself, or of himself and others jointly, if he refuse or fail to produce such book or writing, and to make it subject to the order of the court for the purposes of the action, if required to do so by the party against whom he offers to testify.~~

~~(7) The assignment of a claim by a person who is incompetent to testify for himself shall not make him competent to testify for another.~~

~~(8) A party may be examined as if under cross-examination at the instance of the adverse party, either orally or by deposition as any other witness; but the party called for such examination shall not be concluded thereby, but may rebut it by counter testimony.~~

~~(9) None of the preceding provisions of this section applies to affidavits for provisional remedies, or to affidavits of claimants against the estates of deceased or insolvent persons, or affect the competency of attesting witnesses of instruments which are required by law to be attested.~~]

Section 78. KRS 422.110 is amended to read as follows:

[~~(1)~~] No peace officer, or other person having lawful custody of any person charged with crime, shall attempt to obtain information from the accused concerning his connection with or knowledge of crime by plying him with questions, or extort information to be used against him on his trial by threats or other wrongful means, nor shall the person having custody of the accused permit any other person to do so.

[~~(2) A confession obtained by methods prohibited by subsection (1) is not admissible as evidence of guilt in any court. The trial judge shall determine the competency and admissibility of any alleged confession under the provisions of this section from evidence heard by him, independent of and without the hearing of the jury trying the case.~~]

Section 79. KRS 422.115 is amended to read as follows:

[~~(1)~~] Any person employed as a private investigator or confidential investigator for the purpose of determining or attempting to determine the attendance or number of paid admissions at any motion picture theater performance in this state shall furnish to the owner or general manager of the theater checked, a report of his finding on the next succeeding day and within five (5) days after such check, a written copy of his finding or report.

[~~(2) No evidence obtained by any investigator nor testimony of such investigator, shall be admissible as evidence in any court of this state, or proceedings of any kind, unless there is compliance with the provisions of subsection (1) of this section.~~]

Section 80. KRS 422.140 is amended to read as follows:

No conduct, statement or representation of any officer of any county, city or taxing district, shall [~~be received as evidence against or~~] serve to estop the county, city or taxing district from contesting the legality of any tax or indebtedness authorized or created by it in excess of the constitutional or legal limits relating thereto.

Section 81. KRS 73.140 is amended to read as follows:

When the office of county surveyor is vacant, the county judge/executive shall order the county clerk to take charge of the books and papers of the office, and the clerk shall give certified copies of the records when demanded, and the requirements of KRS 64.012 have been satisfied. [~~Such copies shall be evidence in any court as if certified by the surveyor.~~]

Section 82. KRS 171.660 is amended to read as follows:

[~~(1)~~] Whenever the Governor, Lieutenant Governor or any state agency or subdivision or the principal officer thereof, shall reproduce and preserve for record any records or papers by photographic, microphotographic, or other process which accurately reproduces the original records, which forms a durable medium, and which is performed in accordance with rules and regulations promulgated by the department, the original thereof may be disposed of or destroyed.

[~~(2) Any such reproductions shall be deemed the originals of the records or papers for all purposes, and any facsimiles, certified copies or reproductions thereof, or any prints or enlargements of the reproductions shall be admissible as evidence in any court or proceeding of this Commonwealth, and shall be prima facie evidence of the facts set forth in and the contents of the original records or papers.~~]

Section 83. KRS 242.320 is amended to read as follows:

(1) Any Commonwealth's attorney, county attorney, mayor of a city, or any private citizen may maintain an action in equity in the name of the state upon relation of said officers or citizen against the owner to forfeit property declared a nuisance by KRS 242.310.

(2) [~~In such action evidence of the general reputation of the place or property and of the defendant shall be admissible.~~

~~(3)~~] If the petition is filed by a private citizen, it shall not be dismissed except upon a sworn statement made by the citizen and his attorney, setting forth the reasons why same should be dismissed, and except upon approval in writing in open court by the Commonwealth's attorney or the county attorney.

Section 84. KRS 324.285 is amended to read as follows:

The commission shall adopt a seal with such design as the commission may prescribe engraved thereon, by which it shall authenticate its proceedings. [~~Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of said commission, shall be received in evidence in all courts equally and with like effect as the original.~~] All records kept in the office of the commission under the authority of this chapter shall be open to public inspection under such rules and regulations as shall be prescribed by the commission.

Section 85. KRS 423.020 is amended to read as follows:

(1) A notary public may exercise all the functions of his office in any county of the state, by filing in the county clerk's office in such county his written signature and a certificate of the county clerk of the county for which he was appointed, setting forth the fact of his appointment and qualification as a notary public, and paying a fee of one dollar ($1.00) to the county clerk.

(2) [~~When this has been done the instrument or instruments so proved or acknowledged and certified by the notary, whether prior or subsequent to this date, shall be entitled to be read as evidence or to be recorded in any county the same as if it were certified by a county clerk.~~

~~(3)~~] The county clerk of a county in whose office any notary public has so filed his signature and certificate shall, when requested, subjoin to any certificate of proof or acknowledgment signed by the notary a certificate under his hand and seal, stating that such notary public has filed a certificate of his appointment and qualifications with his written signature in his office, and was at the time of taking such proof or acknowledgment duly authorized to take the same; that he is well acquainted with the hand-writing of the notary public and believes that the signature to such proof or acknowledgment is genuine.

Section 86. KRS 423.050 is amended to read as follows:

Upon the resignation of a notary public or the expiration of his term of office if he is not reappointed, he shall place his record book in the office of the county clerk in the county in which he was appointed, and if a notary dies, his representative shall deposit the record book with the clerk aforesaid. [~~A copy of such record certified by the clerk in whose office it is filed shall be evidence in all the courts of this state.~~]

Section 87. KRS 72.260 is amended to read as follows:

[~~(1) Reports of investigations, examinations and autopsies made pursuant to KRS 72.210 to 72.275 or transcripts or copies thereof certified by the director of the medical examiner section or by any county or district medical examiner or certified coroner or deputy coroner shall be admissible in evidence in any court of this state.~~

~~(2)~~] The secretary of justice is authorized to establish a schedule of fees for issuing duplicate records of investigations, examinations, autopsies and other records; provided, however, that one (1) copy shall be provided free of charge to the coroner and either the county or Commonwealth's attorney concerned.

Section 88. KRS 72.465 is amended to read as follows:

(1) The coroner shall in his sound discretion determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of KRS 72.410 to 72.470, and if inquiry reveals that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize such physician to sign the certificate of death. In all other instances the coroner shall sign the death certificate in coroner's cases.

(2) In the event an autopsy is performed under the provisions of KRS 72.410 to 72.470 subsequent to the time that a death certificate has been filed with the ***Cabinet*** [~~Department~~] for Human Resources, Office of Vital Statistics, the coroner shall notify the Office of Vital Statistics of any change that may be necessary in the original certificate. [~~The autopsy report shall be deemed the best evidence of the cause of death of the decedent.~~]

Section 89. KRS 7.138 is amended to read as follows:

(1) When any complete edition of the statutes is published, the reviser of statutes shall prepare a certificate that the same contains all statute laws of the Commonwealth of a general nature except those omitted pursuant to KRS 7.134, that each section printed in the edition has been compared with the original section in the enrolled Kentucky Revised Statutes, or, in the case of sections of acts enacted after the adoption of the Kentucky

Revised Statutes, with the original section in the enrolled bill, and that, with the exception of the changes in form permitted by KRS 7.136, the sections in the printed edition are correctly printed. A similar certification for each supplement or supplemental pocket part shall be made but it need not recite that same contains all general statute laws. All copies of the edition shall contain a printed copy of the certificate.

(2) [~~Any edition so certified shall constitute prima facie evidence of the law in all courts and proceedings, and~~] Any section in such edition may be amended or repealed by reference to the section number, without reference to the legislative act from which it was compiled. [~~No compilation of the statute laws of Kentucky not bearing such a certificate shall be admissible as evidence of the law in any court or proceeding.~~]

Section 90. KRS 210.670 is amended to read as follows:

Information received by persons employed by a DATE center or received by the cabinet through files, reports, inspection, or as otherwise authorized under KRS 210.610 to 210.680 shall be ***confidential and shall not be disclosed publicly in such a manner as to identify individuals or facilities except in a proceeding involving the question of permit issuance or pursuant to judicial order*** [~~deemed privileged and confidential information and shall not be disclosed publicly in such a manner as to identify individuals or facilities except in a proceeding involving the question of permit issuance~~].

Section 91. No existing statutes, except those listed in this Act shall be repealed or modified by this Act. Headnotes have been adopted by the General Assembly as a portion of this Act.

Section 92. The following KRS sections are repealed:

421.160	Oral examination of prisoners — Depositions.
421.170	Control of prisoner during taking of deposition.
421.200	Competency of witnesses generally.
421.215	Psychiatrist-patient privilege — Limitations.
421.2151	Privileged communication between sexual assault counselor and victim.
421.216	School counselor-student counselee communications — Immunity from disclosure.
421.220	Other objections to witnesses go to credit.
421.355	Admissibility of victim's out-of-court statements.
422.010	Judicial notice of legislative Acts — Official signatures.
422.020	Copies of domestic records or documents admissible in evidence.
422.030	Printed laws of other states and United States — Evidence when.
422.050	Copies of records of other states and United States — Evidence when.
422.060	Proof of common law of other states.
422.070	Foreign law — Proof of.
422.080	Foreign records and laws — Copies as evidence.
422.081	Judicial notice of laws of other states and jurisdiction.
422.082	Information of the court.
422.083	Ruling reviewable.
422.084	Evidence as to laws of other jurisdictions.
422.085	Laws of foreign countries.
422.086	Interpretation.
422.087	Short title.
422.100	Notarized instruments.
422.105	Photographic copies of business and public records are admissible in evidence.

422.106 Citation of KRS 422.105.

422.120 Evidence of genuineness of handwriting — Comparison.

422.150 Testimony taken at trial — Use at subsequent trial.

233.060 Evidence of general reputation admissible.

242.390 Reputation of defendant admissible in evidence.

362.200 Partnership bound by admission of partner.

411.330 Admissibility of certain evidence.

447.030 Acts and compilations of former laws, evidence.

510.145 Inadmissibility of evidence of prior sexual conduct or habits of complaining witness — Exception — Procedure for admission.

319.111 Communications privileged.

423.120 Authentication of authority of officer.

218A.260 Controlled substances — Violations — Use of confidential informants.

335.170 Confidentiality of information — Exceptions.

Section 93. The provisions of this law shall become effective as and to the extent the Supreme Court of Kentucky enters an order of court adopting the Kentucky Rules of Evidence pursuant to its authority to govern the practice and procedure of the Court of Justice under Section 116 of the Kentucky Constitution.

The Committee Amendment No. 1 to **HB 214** is as follows:

Amend printed copy of **HB 214** on page 76, line 4, to place the bracket "[" before "(1)" and to delete the bracket "[" after "(1)";

And on page 77, lines 15 through 18, to delete the same;

And on page 77, line 19 to delete "***(2)***".

The Committee Amendment No. 2 to **HB 214** is as follows:

Amend printed copy of **HB 214** on page 86, by adding the following after line 26:

"***(3) In my judicial or administrative proceeding, the text of any codified Kentucky statute which is submitted or cited by a party or upon which the court or administrative officer or body relies shall be that text contained in an official edition of the Kentucky Revised Statutes so designated pursuant to KRS 7.132 and bearing the certification provided for by subsection (1) of this section.***"

HB 271, AN ACT relating to witnesses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) Personnel of a forensic laboratory operated by a federal, state, or local government agency may testify in criminal or civil matters by closed circuit television if the following requirements are met:

(a) The courtroom is properly equipped to record the audio portion of all sides of the conversation;

(b) Persons in the courtroom can hear and see the laboratory personnel;

(c) Laboratory personnel can see and hear the person asking the questions;

(d) Copies of the laboratory reports have been made available to all parties prior to the testimony; and

(e) A request has been filed with the court, in writing, requesting authorization for the use of televised testimony by a party to the case or by the agency which employs the witness at, or prior to, the time specified by the court for such requests to be filed. Such request shall include a statement as to why the presence of the laboratory personnel in court should not be required.

(2) In courtrooms equipped for the television recording of the proceedings and in which such television recording is in use, the system in use shall be capable of recording the testimony of the laboratory personnel and the questioning in the courtroom.

(3) The presiding judge shall determine whether or not to grant the request to permit the use of closed circuit television testimony as permitted by this section.

HB 298, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he knowingly has in his possession or control any matter which visually depicts an actual sexual performance by a minor person.

(2) Possession of matter portraying a sexual performance by a minor is a Class A misdemeanor for the first offense and a Class D felony for the second and subsequent offenses.

Section 2. KRS 531.340 is amended to read as follows:

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he:

1. Exhibits for profit or gain; or

2. Distributes; or

3. Offers to distribute; or

4. Has in his possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a [~~Class A misdemeanor unless the defendant has in his possession more than one (1) unit of material coming within the provisions of KRS 531.300, in which case it shall be a~~] Class D felony.

The Committee on Transportation reported **HB 299**, with Committee Amendments attached thereto, and **HB 359** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 299, AN ACT relating to motor carrier registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.056 is amended to read as follows:

(1) Whenever the ownership of a vehicle which has been registered at a declared gross weight in excess of 18,000 pounds under KRS 186.050 is changed, a refund of that portion of the tax paid allocable to the remainder of the unexpired period for which the tax was paid may be refunded as provided for destroyed vehicles in KRS 186.120(1) and in accordance with regulations adopted hereunder.

(2) In the event a vehicle is registered in accordance with KRS 186.050(11) the seller may obtain a refund of the portion of the tax which he had theretofore paid allocable to the remaining complete ***months*** [~~quarters~~] of the unexpired period for which the tax was paid in the same manner as provided for destroyed vehicles in KRS 186.120, and in accordance with regulations adopted hereunder.

(3) In the event the use of a vehicle which has been registered according to the terms of any proportional registration agreement pursuant to the provisions of KRS 186.050(14), is permanently discontinued by the

registrant, a refund of that portion of the tax which the registrant had heretofore paid to the department, allocable to the remaining complete ***months*** [~~quarters~~] of the unexpired period for which the tax was paid may be made to the registrant or a credit of that portion of the tax paid allocable to the remainder of the unexpired period for which the tax was paid may be applied toward the registration of any other vehicle during the current registration period by the registrant. The department shall have the authority to promulgate regulations regarding such refunds or credits.

Section 2. KRS 186.130 is amended to read as follows:

(1) If any person becomes the owner of a motor vehicle required to be registered under the provisions of KRS 186.050(2) after January 1 of any year, and for that reason registers for only part of a year, the registration fee shall be as many twelfths of the annual fee as there are unexpired months in the calendar year.

(2) If any person offers a commercial vehicle for registration after ***April 1*** [~~June 30~~] of any year by reason of not having operated such vehicle on the public highways after April 1 of that year, the registration fee shall be ***as many twelfths of the annual fee as there are unexpired months in the registration year*** [~~three-fourths (3/4) of the annual registration fee if registered after June 30 and prior to September 30 of that year; and shall be one-half (1/2) of the annual registration fee if registered on or after October 1 and before January 1 of the following year; and shall be one-fourth (1/4) of the annual registration fee if registered on January 1 or thereafter for the balance of the registration year which expires March 31~~].

The Committee Amendment No. 1 to **HB 299** is as follows:

Amend printed copy of **HB 299** on page 1, line 13, by deleting the word "***months***"; and

On page 1, line 14, by removing the brackets and strikethroughs from the word "quarters";

The Committee Amendment No. 2 to **HB 299** is as follows:

Amend printed copy of **HB 299** on page 3, after line 6, by adding the following language:

"Section 3. The provisions of this Act shall become effective on April 1, 1991."

HB 359, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad or publicly owned civil defense agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) By ordinance, the governing body of any city or county may direct that the police, ***duly constituted police auxiliary*** or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating or oscillating lights.

(4) All public safety vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(5) All corrections cabinet vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle. Such corrections cabinet vehicles shall not be equipped with or use a siren, whistle or bell. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.

(6) Red flashing lights may be used by school buses.

(7) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

The Committee on Transportation reported **HB 350** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 350, AN ACT relating to motor vehicle accident reports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.635 is amended to read as follows:

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or non-fatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding ***five*** [~~two~~] hundred dollars ***($500)*** [~~($200)~~] in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident.

The Committee on Banking and Insurance reported **HB 53** and **HB 212**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 53, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, within one (1) year from the effective date of this Act, promulgate reasonable regulations establishing minimum standards for contracts providing health benefits delivered or issued for delivery in Kentucky under subtitles 17, 18, 32 or 38 of this chapter or on a self-insured basis to the extent permitted by federal law. The regulations may cover but are not limited to:

(a) Establishing specific standards for contract provisions;

(b) Prohibiting contract provisions which in the opinion of the commissioner are unjust, unfair or unfairly discriminatory to any person insured or proposed for coverage;

(c) Establishing minimum standards for benefits; and

(d) Prohibiting contract provisions that provide benefits which are of little or no value because the coverage provided is for care and treatment which is less than the minimum standards of care and treatment offered by health care providers in Kentucky.

(2) All insurers, health maintenance organizations and self-insurers subject to the provisions of this Act shall comply with the regulations promulgated pursuant to this Act within one (1) year of the effective date of the regulations.

HB 212, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No insurer shall cancel, refuse to renew, or increase the premium on an automobile liability insurance policy on an automobile owned by an insured who is employed by the Commonwealth of Kentucky because of an accident which occurred while the insured was operating a motor vehicle owned by the Commonwealth of Kentucky.

The Committee Substitute to **HB 212** is as follows:

HB 212, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No insurer shall cancel, refuse to renew, or increase the premium on an automobile insurance policy on an automobile owned by an insured who is employed by the Commonwealth of Kentucky because of an accident which occurred while the insured was acting in the scope and course of his employment as a state employee and was operating a motor vehicle owned by the Commonwealth of Kentucky, except in the case of a driver who has a pattern of conduct exhibiting a disregard for the traffic laws of the Commonwealth of Kentucky.

Calendar

HB 13, HB 16, HB 65, HB 134, HB 314, HB 323 and **HB 338** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 97, HB 329 and **HB 377** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 91 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 91** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 1, 1990 roll call on **HB 91** - Appendix.)

HB 91 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 91** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 252, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 252.** Agreed.

Representative Donnermeyer moved that **HB 252,** as amended, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 1, 1990 roll call on **HB 252** - Appendix.)

HB 252, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 252**, as-amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 295 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 295** be passed.

On the roll call the vote was: Yeas 94, Nays 4. (See February 1, 1990 roll call on **HB 295** - Appendix.)

HB 295 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 295** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 236, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved the adoption of Committee Substitute to **HB 236**. Agreed.

Representative T. Jones moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 236**. Agreed.

Representative T. Jones moved that **HB 236**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 1, 1990 roll call on **HB 236** - Appendix.)

HB 236, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 236**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 101, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved the adoption of Committee Substitute to **HB 101**. Agreed.

Representative Nelson moved that **HB 101**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 1, 1990 roll call on **HB 101** - Appendix.)

HB 101, by way of Committee Substitute, was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 101**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 60 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HB 60** be passed.

On the roll call the vote was: Yeas 94, Nays 4. (See February 1, 1990 roll call on **HB 60** - Appendix.)

HB 60 was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 60** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 267, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Amendment No. 1 to **HB 267**. Agreed.

Representative LeMaster moved that **HB 267**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 1, 1990 roll call on **HB 267** - Appendix.)

HB 267, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 267**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 480, by Representatives Curtsinger, Yates, Ford, Turner, Butler, Todd, Freibert, Lile and Allen: AN ACT relating to crimes and punishments.

HB 481, by Representative Burch: AN ACT relating to intertrack wagering.

HB 482, by Representative Burch: AN ACT relating to blood donations.

HB 483, by Representative Ackerson: AN ACT relating to political activities of local government employees.

HB 484, by Representatives Richards, B. Smith and J. Harper: AN ACT relating to the official state high school speech league and tournament.

HB 485, by Representative Blevins: AN ACT relating to funding for child abuse prevention programs through a fee on vital statistics activities and services.

HB 486, by Representative Blevins: AN ACT relating to the Kentucky infrastructure revolving fund.

HB 487, by Representatives Cyrus and Deskins: AN ACT relating to workers' compensation.

HB 488, by Representatives Moberly, Barrows and T. Jones: AN ACT relating to public notice.

HB 489, by Representatives Moberly, Sheehan, Lewis, Barrows, T. Jones, Noe, Ward and Blevins: AN ACT relating to election campaign financing, making an appropriation therefor and declaring an emergency.

HR 84, by Representatives Deskins, Little and Mason: A RESOLUTION honoring Pike County.

HR 85, by Representative Deskins: A RESOLUTION honoring and in memory of Henry D. Stratton of Pikeville, Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Natural Resources and Environmental Protection: **HB 173.**

Judiciary: **HB 38, HB 40, HB 85, HB 310, HB 367, HB 368, HB 383, HB 394, HB 397, HB 406, HB 407, HB 408.**

Report of Committees

The Committee on Education reported **HB 237**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 237, AN ACT relating to the Commission on the Deaf and Hearing Impaired.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

(1) The Commission on the Deaf and Hearing Impaired shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) hearing impaired or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or hearing impaired person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;

4. One (1) person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term;

5. One (1) deaf or hearing impaired person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for Human Resources appointed by the secretary;

(c) The secretary of the Education and Humanities Cabinet or his designee;

(d) The president of the Kentucky Association for the Deaf or his designee;

(e) The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and

(f) Three (3) persons appointed by the Commission on the Deaf and Hearing Impaired as constituted in subsections (1)(a) through (1)(e) of this section, appointed as follows:

1. One (1) parent of a hearing impaired or deaf child;

2. One (1) representative of a private organization providing consistent services to the deaf and hearing impaired; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsections (1)(a)(2.) through (1)(a)(5.) and subsection (1)(f) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on the effective date of this Act shall serve until he resigns or until his term expires.

(3) Each member of the commission shall receive twenty-five dollars ($25.00) per day for attending each meeting and shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 2. KRS 163.520 is amended to read as follows:

All departments, divisions, boards, bureaus, commissions or agencies of state government shall provide the commission data necessary to carry out its duties under ***section 1 of this Act and KRS 163.510*** [~~KRS 163.505~~] to 163.515.

Section 3. The following KRS section is repealed:

163.505 Commission on the deaf and hearing impaired — Membership — Terms — Compensation.

The Committee Amendment No. 1 to **HB 237** is as follows:

Amend printed copy of **HB 237** on page 3, line 1 remove the parenthesis from ***2.*** and ***5.***; and

On page 3, line 16 delete "***Section 1 of this Act and***".

Pursuant to **HR 11**, the Speaker appointed the following committee to wait upon the Governor: Representative Hancock, Chairman; Representatives Overstreet, Gray and White.

Representative Deskins moved the adoption of the following **HR 84**:

HR 84, A RESOLUTION honoring Pike County.

WHEREAS, Pike County was formed in 1821; and

WHEREAS, Pike County is one of the largest underground coal producing counties in the United States; and

WHEREAS, Pike County encompasses 785,000 square miles of land, the largest county east of the Mississippi River; and

WHEREAS, the social, cultural, educational, and economic advancements of Pike County throughout the course of the years emphatically substantiates that Pike County can no longer be recognized as a backward area; and

WHEREAS, the Pikeville cut-thru project connects four major road systems; and

WHEREAS, Pikeville is the central location for the surrounding major cities of Cincinnati, Lexington, and Knoxville; and

WHEREAS, tourism and other economic development in Pike County will continue to be hindered without essential funding for transportation development needs; and

WHEREAS, the proud citizens of Pike County have donated countless hours of time and energy toward the improvement of their county; and

WHEREAS, Geri Kinder, Executive Director of the Pike County Chamber of Commerce, is to be commended for her excellent leadership qualities; and

WHEREAS, on adjournment of the Governor's Commonwealth Message, a "mountain get-together" will be held for the legislative members of this great Commonwealth in the Capital Plaza Hotel, serving soup beans and cornbread, and plenty of good bluegrass entertainment furnished by Larry Webster and The Mule Band; and

WHEREAS, this honorable body recognizes and appreciates the volunteers of the "mountain get-together" reception committee: Gregory Johnson, Georgia Johnson, Carla Corbin, Bill Owens, Carrie Cinnamond, Ron Slone, Richie Phillips, Leon Huffman, Sophia Hays, and Judy Vance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body salutes Pike County and its citizens for their volunteerism and interest in seeking improvements for their county.

Section 2. That when the House of Representatives adjourns this day, Thursday, February 1, 1990, it does so in honor of Pike County.

Section 3. That the Clerk of the House of Representatives is directed to transmit 12 copies of this resolution to Ms. Geri Kinder, Executive Director, Pike County Chamber of Commerce, P.O. Box 897, Pikeville, Kentucky 41501.

HR 84 was adopted by voice vote.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 83**:

HR 83, A RESOLUTION recognizing the outstanding contributions to Kentucky made by all elementary and secondary Catholic schools in Kentucky.

WHEREAS, in 1606 members of the Franciscan order established the first Catholic school; and

WHEREAS, for the past four centuries millions of students have received a sound value oriented education; and

WHEREAS, there are now about nine million schools and 2.6 million students nationwide and 50,000 students in Catholic schools in Kentucky; and

WHEREAS, this amounts to a 10 billion dollar gift to the nation in private money for education; and

WHEREAS, January 29th through February 3rd is National Catholic Schools Week;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognizes and praises the academic and athletic traditions and contributions of Catholic schools in Kentucky and the nation.

Section 2. That the House of Representatives celebrates the choices made by parents in sending their children to Catholic schools.

Section 3. That a copy of this resolution be sent to the Catholic School Boards of Covington, Lexington, Louisville and Owensboro.

HR 83 was adopted by voice vote.

Representative Heleringer moved that the rules be suspended to allow a call of the roll to show co-sponsors of **HR 83**.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, Lewis, Lile, Long, Lyne, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Sheehan, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 0.

Representative Deskins moved the adoption of the following **HR 85**:

HR 85, A RESOLUTION honoring and in memory of Henry D. Stratton of Pikeville, Kentucky.

WHEREAS, Henry Davis Stratton of Pikeville, Kentucky, departed this life on Saturday, July 22, 1989; and

WHEREAS, Henry Davis Stratton served the people of Kentucky in many ways in his capacity as an attorney; and

WHEREAS, the astute Kentuckian, Henry Davis Stratton, graduated from the University of Louisville Law School and became a member of the State Bar in 1950; and

WHEREAS, this distinguished Kentuckian practiced in the United States District Court, United States Court of Appeals for the 6th Circuit and the Supreme Court of the United States to which he was admitted to practice in 1956; and

WHEREAS, Henry Davis Stratton represented Kentucky with distinction as a commissioner of the National Conference of Commissioners on Uniform State Laws from 1975 until his death;

WHEREAS, among Henry Davis Stratton's magnitude of accomplishments was his chairmanship of the Ethics Committee of the Kentucky Bar Association from 1966-72; and

WHEREAS, this notable Kentuckian undertook reviewing all prior ethics opinions and rewrote them setting up the current format used for ethics opinions; and

WHEREAS, Henry Davis Stratton ably served as president of the Kentucky Bar Association from 1974 to 1975 and from 1976 to 1977; and

WHEREAS, Henry Davis Stratton established a program for budgetary reform of the Kentucky Bar Association, adopting in essence the County Budget Act, and also in essence the expense voucher form utilized by our Commonwealth; and

WHEREAS, in 1975, together with President Ben L. Kessinger, Henry Davis Stratton installed the first Multi-discipline Long Range Planning Program of the Kentucky Bar Association; and

WHEREAS, this outstanding Kentuckian was chairman of the Continuing Legal Education Commission 1978-84 and led the development of the mandatory CLE program now current in Kentucky; and

WHEREAS, as recently as 1985 Henry Davis Stratton was named outstanding lawyer of Kentucky by the Kentucky Bar Association; and

WHEREAS, until recently Henry Davis Stratton was Senior Member Stratton, May and Hays, PSC, Pikeville, Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its profound grief over the loss of Henry Davis Stratton and extends its sympathy to his beloved wife, Lois Jean Stratton, his daughter Teresa Louise Stratton, and two sons David and Danny Stratton.

Section 2. That the clerk of the House is instructed to transmit copies of this resolution to Mrs. Lois Jean Stratton and family of Pikeville, Kentucky.

HR 85 was adopted by voice vote.

Representative Geveden moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Geveden moved the adoption of the following Legislative Citation No. 23. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Terri Fiegel on your election as State Beta President. Your membership in the Beta Club, Pep Club, Spanish Club, DARE, FHA and choir, and your outstanding scholastic record at Ballard Memorial High School are admirable. Your contribution to school and church organizations are noteworthy and demonstrate leadership qualities.

This prestigious body joins Representative Charles Geveden in honoring you for your achievements and recent victory. We extend to you our very best wishes for continued success as you travel to the National Beta convention and compete for the office of National Beta president.

Representative Geveden moved the adoption of the following Legislative Citation No. 24. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Carlisle County Academic Team.

This body salutes members of the Carlisle County Academic Team for capturing first place at the first Western Kentucky Academic Bowl held at Murray State University.

Team members should be proud of not only their individual achievements, but also their team effort that brought home the victory.

This prestigious body joins Representative Charles Geveden in saluting the Carlisle County Academic Team for their hard work, dedication and academic achievements.

Representative Geveden individually honored the following members of the Carlisle County Academic Team:

Eric Carter, Daniel Case, Eric Gibson, Chris Green, Todd Terry, and Doug Wilson.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 9, Representative Donnermeyer; **HB 38**, Representative Clarke; **HB 43**, Representative Donnermeyer; **HB 65**, Representatives McElroy, P. Richardson; **HB 86**, Representative Keith; **HB 113**, Representative Worthington; **HB 128**, Representative Lile; **HB 196**, Representative Ford; **HB 221**, Representative Donnermeyer; **HB 229**, Representatives Blevins, Maggard; **HB 232**, Representative Blevins; **HB 238**, Representative Lefevers; **HB 256**, Representatives Donnermeyer, Farrow; **HB 285**, Representative Lefevers; **HB 288**, Representative Lefevers; **HB 295**, Representative Ackerson; **HB 330**, Representative Turner; **HB 333**, Representative Todd; **HB 348**, Representative Lefevers; **HB 352**, Representatives Bronger, Maggard, Noland, Priddy, Ward, Yates; **HB 353**, Representative Stumbo; **HB 355**, Representative Burch; **HB 360**, Representatives Altman, Bruce, Morris; **HB 361**, Representatives Altman, Bruce, Morris; **HB 387**, Representative Yates; **HB 390**, Representative Lefevers; **HB 394**, Representative Gregory; **HB 395**, Representative Lefevers; **HB 404**, Representatives Crupper, White, Worthington; **HB 425**, Representative Todd; **HB 427**, Representative Lefevers; **HB 429**, Representative Mack; **HB 430**, Representative Mack; **HB 436**, Representatives P. Clark, Gedling, Lyne, Strong; **HB 454**, Representative White; **HB 471**, Representative Mullinix.

The following member filed a request to have his name withdrawn as co-sponsor of a Bill: **HB 440**, Representative Gray.

Announcements

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 2 to the Committee Substitute to **HB 107**, by Representative Blevins:

Amend printed copy of HCS for **HB 107** on page 2, line 6, by deleting the word "***registered***"

And on page 2, line 15, by inserting the word "***licensed***" preceding the word "***practical***"

And on page 2, line 25, by deleting the words "***hospital, primary care center or long-term care***" and substituting in lieu thereof the word "***health***"

And on page 4, by deleting lines 1 through 8 in their entirety,

And on page 3, line 17, by deleting the words "***These funds shall be matched by primary care***" and substituting in lieu thereof, the following words: "***All funds dispersed to a qualified applicant shall be matched by the sponsoring health facility participating as the applicant's sponsor in the Kentucky nursing incentive scholarship fund program***"

And on page 3, by deleting lines 18 through 20 in their entirety,

And on page 3, line 24, by inserting after the words "***shall be***" the word "***annually***"

And on page 4, line 13, by inserting after the words "***board president***" the words "***or executive director***"

And on page 4, line 13, by deleting the word "***primary***" and inserting in lieu thereof the word "***health***"

And on page 4, line 14, by deleting the words "***care center, hospital or long-term care***"

And on page 4, line 17, by inserting after the words "***any applicant***" the words "***or recipient***"

And on page 4, line 17 by inserting after the words "***the applicant***" the words "***or recipient***".

The Clerk announced the following meetings:

The Committee on State Government, Friday, February 2, 1990 at 9:00 a.m.

Recess

Representative Stumbo moved that the House recess until 7:30 p.m, Thursday, February 1, 1990. Agreed.

Representative Stumbo moved that a call of the roll be taken to recess.

On the roll call the vote was yeas 79—Ackerson, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, J. Harper, K. Harper, Hatcher, Jackson, Jensen, Johnson, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Lewis, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, B. Smith, Stokes, Stumbo, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 4—Bronger, LeMaster, Lile, R. Smith..

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that floor privileges be granted to Constitutional Officers and other invited guests. Agreed.

The Chief doorkeeper announced the arrival of the President of the Senate.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The Speaker introduced the Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, who assumed the Chair and called the Joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Prayer by Brother Joe Adams.

The Committee appointed to wait upon the Governor reported the Governor was ready to address the Joint Session.

The doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House chamber to address the Joint Session, appeared with the Governor.

The Honorable Brereton C. Jones introduced the Honorable Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky.

Governor Wilkinson addressed the Joint Session of the General Assembly as follows:

Lieutenant Governor Jones, Mr. Speaker, distinguished members of the General Assembly, Mr. Chief Justice Stephens, members of the Supreme Court, and all the hard-working families of Kentucky.

In keeping with a tradition that is nearly two centuries old, I come before you tonight to present my report on the State of the Commonwealth we all love so much. I am the fifty-third Governor since our State was born, to come before the people and their General Assembly and report on the State of our Commonwealth. But not one of them — not one — could have loved this state any more than I do.

Over the last two years, as I have had the privilege to serve as Governor, as I have traveled this state and visited with its people, that love has only intensified. It's important that you know that. Because if you do, then you can start to understand why I fuss and kick up a storm like I do from time to time.

To my friends — yes, my friends — in the General Assembly, let me say this. I know I could be easier to get along with — and you know it, too. But I wasn't sent here to get along. I was sent here to get Kentucky moving again. You know change is never easy. Sometimes progress is painful. But from that pain has come real and substantial gain.

Tonight I can report to you that the State of the Commonwealth is stronger, safer, sturdier than it has been in many years. To get a picture of just how far we've come, it's helpful to take a quick look back. Just two years ago Kentucky was falling behind. Today we are forging ahead. Two years ago we had no lottery. Today we have a lottery that's a winner for everyone. Two years ago our educational system could only be described as a mess — our Supreme Court had another word for it - unconstitutional.

But today, thanks in large measure to the hard work of the men and women of the General Assembly, thanks in large measure to you and the Task Force on Education Reform, Kentucky is on the verge of fundamental restructuring of our educational system. Perestroika, as I referred to it in last year's State of the Commonwealth Address.

Two years ago people were looking to Tokyo to learn how they negotiated such favorable deals in Kentucky. Today the top financiers from all over the world are studying Kentucky's yen bond issue. In fact, the prestigious publication "Institutional Investor" named it, "Deal of the Year." It is a state of the art public financing, and it was made in the State of Kentucky.

Two years ago Kentucky had a deficit — and Connecticut and New Jersey and Massachusetts had surpluses. Today it is Kentucky that's turned its deficit into a surplus, while others have turned their surpluses into deficits. Two years ago tax collections in Kentucky were so dismal that some believed efforts to collect back taxes from thousands who owed them wouldn't pay off. Today, because of our tax amnesty and our stronger enforcement, we've got more than 61 million dollars no one thought we were going to collect. That is why I like to say that "winning in Kentucky" is more than just rhetoric - it's reality.

But don't take my word for it. Let's look at the facts. More people have jobs in Kentucky than ever before in our history. Some 100,000 Kentuckians who didn't have jobs two years ago have them now. Our unemployment rate is at its lowest point in a decade — and what's more, almost every single Kentucky county has a lower unemployment rate than it did just two years ago. And those jobs are good-paying jobs — permanent, productive, private-sector jobs.

That's why, after seven years of lagging behind the rest of the country in per capita income - Kentucky has beaten the national average for both of the last two years. It's not that the rest of the country is slowing down, it's that Kentucky is speeding up and passing them.

The area in which we're picking up steam even faster than our economy is in education. When I reported to you on the State of the Commonwealth last year, I had to admit that our educational system had not yet made the progress we all would have liked, and I pledged to you that I would not rest until it had. I'm not about to rest now, but I am willing to say that Kentucky is now on the cutting edge of change.

This Commonwealth has an opportunity no other state has had. The opportunity to rebuild our educational system from scratch. We have seized that opportunity, and we are making the most of it. The bold, dynamic blueprint for change we have proposed is now the envy of the Nation. In fact, when President Bush and my fellow Governors met in Charlottesville for the Education Summit, the recommendations that came out of that meeting reflected the same ideas this administration has been advancing since day one. And now, experts and consultants all over the country agree that Kentucky's education agenda is America's education agenda.

The eyes of the education world are on Kentucky, and Kentucky is rising to the occasion: Good jobs for our people, and good schools for our children — it's not very complicated. But the twin towers of economic strength and educational excellence are built on a broad foundation of improvement in almost every aspect of the public life of our State.

Let me touch on just a few of the scores of success stories that make up the Kentucky comeback: the Lottery we worked for and fought for and pushed for is a reality now. First the naysayers said people didn't want a lottery. They were wrong. Then they said it would never pass. Wrong again. Then they said the lottery would never raise the 70 million dollars a year we thought it would. Well, on that one I've got to admit they were right. The Lottery will not raise 70 million dollars in its first year — it will be closer to a hundred million dollars. But now that we've won the battle to get a lottery, let's not lose the war of applying the proceeds where they'll do the most good.

As Governor, I cannot stand idly by and watch the proceeds from that Lottery go into the General Fund. I promised the people of Kentucky a Lottery dedicated to education and senior citizens. And the people of Kentucky voted for a Lottery dedicated to education and senior citizens. So I ask you to join me in dedicating those funds to our childrens' future and our parents' security.

I understand the funding needs of this complex Commonwealth, and the budget I have presented to you is a blueprint for a better Kentucky. After two years of common sacrifice, we have trimmed enough from state government that now we're ready to give it a good work-out. That's why I have proposed a vigorous plan to put state government back to work — for the people of Kentucky.

That plan includes the largest rural-road-resurfacing program in the State's history — a project that will replace every bridge in Kentucky less than 50 feet in length that won't bear the weight of a loaded school bus.

Our budget also includes more money for education at all levels — elementary, secondary, community college, vocational, and higher education — and a 14-year education guarantee. So that never again will a son or daughter of Kentucky be denied an education because of their bankbook.

We've proposed a solution to our prison crisis that means that tough sentences and hard time will replace the slap on the wrist and the overcrowded jails. As a businessman, I was always looking for ways to save money. That's why as Governor I've always considered education and rehabilitation as a part of my anti-crime program — so that our young people will have hope and opportunity, and won't turn to crime and drugs. It's cheaper to keep our kids out of trouble than to keep building more and more prisons.

We've also proposed a new Cabinet for Workforce Development, to train and retrain Kentuckians for success in our new information and technology driven economy, so our people will be ready for the jobs of the 21st Century.

We've begun a community development project fund and proposed the toughest drunk driving and anti-drug laws this State has ever seen. For the first time in Kentucky history, we have an environmental management plan, a comprehensive battle plan for the war against pollution, toxic waste and out-of-state garbage. I will never allow Kentucky to become the Nation's garbage dump.

We've made rural Kentucky a part of the Commonwealth again. We've taken government to the people through our Capitol to the Counties Program. Now when the people of Kentucky talk, State Government listens.

We've brought new roads, new jobs, and most of all new hope to rural Kentucky. All those programs are important, and each of those programs will make an important difference. But in the end, government is not about programs — it is about people.

When I fight with the special interests, it's not because I dislike the lobbyists of Frankfort, it's because I love the people of Kentucky. When I argue with some of the people in this room, it's not because I dislike them, it's because I love the people of Kentucky. And if I rail against the biased, slanted, distorted lens that was trained on us when CBS blew through Kentucky for "48 Hours," it's not because I dislike those who disparage our people and distort our lives — on second thought, I have to admit that I do dislike that. I dislike it when CBS flies in here from New York with their cameras and their prejudices and their preconceived notions.

I wish the Chairman of CBS, Mr. Lawrence Tisch of New York, which, I'm told, has a few cases of poverty and substance abuse and ignorance and crime of its own, would come to Kentucky for more than 48 hours. And if Lawrence Tisch would come down from his penthouse apartment, fight his way to the airport, and come to Kentucky, he would see the Kentucky you and I love. The beautiful Kentucky we grew up in and the even more beautiful Kentucky our children and grandchildren will grow up in.

If he could see the rolling hills of the bluegrass as the fog starts to lift on a spring morning, if he could see the beauty of the mountains and the strength of the families of Eastern Kentucky, if he could see the rock-solid faith of the Sunday morning church services in Western Kentucky, or the everyday miracle of special heart surgery in Louisville, if he could feel the surge of electricity as the first hoof hits the dirt of Churchill Downs, and the first note of "My Old Kentucky Home" fills the air on Derby Day, if he could only see all the courage and commitment and character that are the heirlooms of the family of Kentucky, then Mr. Lawrence Tisch of CBS wouldn't leave Kentucky and go back to New York for — well, for all the gold in Fort Knox.

I have seen those things and more. And only my heart can express how I've been moved as I have looked into the eyes of Kentucky, and seen the courage and determination that have brought us back. That is why I can never give up on our fight to continue moving Kentucky forward.

I want to read to you a letter I received from a little girl — a letter that captures far better than I the spirit of this State:

Dear Governor Wilkinson:

My name if Christi Johnston. I go to Cub Run School, which is in Hart County. I'm in the 4th grade this year. My family is very interested in education, they talk about it a lot. My Mom and two Aunts are teachers and my Mamaw is retired from teaching. I want to be a teacher too when I grow up.

I would like for you to visit my school sometime to meet my teacher and my classmates. I am glad I live in Kentucky even if people do think we can't do things. Maybe things are not so bad.

We have smart kids but we need an education. I hope my older brother and sister can get a good education and find a job so they can work and live in Kentucky.

Sincerely, Christi Johnston

Well, Christi, I accept your invitation. I'd be honored to visit your school, and I'm going to ask your state representative and your state senator to come with me, along with the leaders of the General Assembly. I'm even going to invite Mr. Lawrence Tisch of CBS to come too. Because the hope and the strength and the determination that shines through every line of your letter can be an education to all of us.

My friends, if we are to give Christi Johnston the education she deserves, an education that will help her compete on an even footing with kids from Tennessee and Texas and even Tokyo, if we are to give her brother and her sister satisfying jobs in an expanding economy, if we are going to give her opportunity and dignity and pride to be a Kentuckian — then we can never give up, we can never give in. Because the more we do about education today, the less we'll have to do about drugs tomorrow.

Christi, you're the reason I fight as hard as I do. Because of you and millions just like you, business as usual in Frankfort is just not good enough. It would be easy to go along to get along, to agree to yet another tax increase on those who are already paying too much, and agree to yet another loophole for the special interests and their fleet of pinstriped lobbyists and lawyers. What's harder is taking on the selfish interests who want to raise taxes on the blue jeans and winter coats our families work so hard to buy, but not on the advertising and legal advice the corporations and the special interests make millions from, and on which they pay no taxes.

But I'm willing to fight that fight — no matter what. No matter if it costs me a chance to put my record before the voters again. No matter if it costs me editorials lauding my cooperative spirit. No matter if it costs me a thousand rounds of golf with a thousand lobbyists at a thousand country clubs. I will never betray the trust of Christi Johnston and the millions of other Kentuckians just like her.

It is for them that I have devoted the first half of the Wilkinson administration and it is for them I will devote the second half as well. The past, it's been said, is prologue.

So the Kentucky agenda for the next two years is to redouble our efforts and continue to fight for the average working families of this State — especially on five fronts:

First, school restructuring - where we will be able to look Christi and every other school child in this Commonwealth in the eye, and not just promise them excellence and equity in education, but deliver on it.

Second, meeting Kentucky's fiscal needs - where we will fight for a tax system in which the special interests give up their free ride and climb on down and help the rest of us pull the wagon for a change.

Third, drugs - we will take the pushers off the playgrounds and put them in the penitentiary.

Fourth, environmental protection - where we will clean up the water, tighten up the landfills, and keep the out-of-state garbage, out-of-state.

Fifth, jobs - I've always said the best social program ever invented is a job. Well, we've created 100,000 of those social programs in the last two years. I plan to continue creating jobs and giving the dignity of a paycheck to thousands more Kentucky families in the next two years.

Our agenda for the future may cause a few more disagreements in Frankfort. I hope not. But I was sent here to do a job, and I intend to do just that. I never tried to be a Governor who would be the favorite of the insider crowd — or the darling of the press. I've tried to be a different kind of Governor. I knew I would never be as expert in the political process as some of the leaders of our General Assembly, so I decided to focus on what I know best, the people of Kentucky — their hopes, their dreams, their aspirations.

As the son of a peddler from rural Kentucky, whose school was so poor we did not have money for chemistry or foreign languages, I feel a very special kinship with the ordinary people of Kentucky who are in reality the most extraordinary people on the face of God's earth. I have tried every day to be a Governor for the quiet heroes of the Kentucky comeback:

The family farmers who plant their own crops and bale their own hay.

The small business owner who calls her employees by their first names.

The dedicated teacher who comes to school early and stays late, and by her hard work lights the spark of knowledge in the minds of children like Christi Johnston.

I have tried to be a Governor for all the hard-working families that are the strength and the soul of Kentucky. It is from your ranks that I come — it is your cause that I carry — it is your Kentucky that I love — and it is for you that I fight.

Good night. God bless you, and God bless Kentucky.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker assumed the Chair.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 2, 1990.

On the roll call the vote was yeas 76—Ackerson, Adkins, Allen, Ark, Arnold, Ballard, Bentley, Blandford, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, O'Brien, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Yates. Nays 6—Barrows, Deskins, Hatcher, LeMaster, Preston, Priddy.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 2, 1990

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Johnson.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 1, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 107**, **SB 156**, **SB 161**, **SB 169**, **HB 20**.

Representative P. Richardson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative P. Richardson moved the adoption of the following **HR 64**:

HR 64, A RESOLUTION honoring the Kentucky State Police for providing security during this session of the 1990 Kentucky General Assembly.

WHEREAS, the distinguished Kentucky State Police readily provide assurance that the vital work of the Kentucky General Assembly will go undisrupted; and

WHEREAS, these prestigious officers in gray are held in the highest regard and esteem; and

WHEREAS, the House expresses its sincere gratitude and cone in the Kentucky State Police;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives praises and extends its highest commendation to the members of the Kentucky State Police for their exemplary service.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to W. Michael Troop, Acting Commissioner of the Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky 40601.

HR 64 was adopted by voice vote.

Representative P. Richardson moved that a call of the roll be taken to show co-sponsors of **HR 64**.

On the roll call the vote was yeas 87—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Mason, McBee, McElroy, Moberly, Morris, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Siler, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Zimmerman. Nays 0.

Representative Lear moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Lear moved the adoption of the following Legislative Citation No. 19. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Leestown Junior High School Girls' Basketball Team.

This body salutes every team member, Mr. Rafael Cordves, Principal, Miss Debra Jean Mack, Coach, and Mr. Hobert Hurt, Assistant Coach. The team won all their season games as well as the city wide Junior High Girls' Basketball Tournament in 1989. This is the second time in three years that Leestown has won the city wide Girls' Tournament.

The members of this team are not only winners on the court but they are winners in the classroom and in their school.

This prestigious body joins Representative Louie Mack in congratulating the Leestown Junior High School Girls' Basketball Team on their victories.

Introduction of Bills and Resolutions

HB 490, by Representatives Cyrus, Blevins, Adkins, Jackson and Arnold: AN ACT relating to motorcycles.

HB 491, by Representative Long: AN ACT relating to health care pricing.

HB 492, by Representative Long: AN ACT relating to health care information.

HB 493, by Representative Heleringer: AN ACT relating to waterworks in counties with cities of the first class.

HR 96, by Representative Blevins: A RESOLUTION honoring James Still upon the Fiftieth Anniversary of the publication of his novel, ***River of Earth***.

HR 97, by Representative Brown: A RESOLUTION recognizing National School Counseling Week and Kentucky School Counseling Week.

HR 98, by Representative Stumbo: A RESOLUTION honoring Monsignor Ralph Beiting for his selfless devotion to the people and the spirit of Appalachian Kentucky.

HCR 99, by Representatives Callahan, Donnermeyer and Reinhardt: A CONCURRENT RESOLUTION urging the Federal Highway Administration to reinstitute the truck diversion policy on Interstate 471 in northern Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 476, HB 478, HB 486.**

Business Organizations and Professions: **HB 472, HB 473, HB 475, HB 481.**

Cities: **HB 483.**

Education: **HB 484.**

Elections and Constitutional Amendments: **HB 479, HB 489.**

Health and Welfare: **HB 471, HB 482, HB 485.**

Judiciary: **HB 477, HB 480.**

Labor and Industry: **HB 487.**

Natural Resources and Environmental Protection: **HB 488.**

Transportation: **HB 474.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 223, HB 238, HB 241, HB 326, HB 418.**

Elections and Constitutional Amendments: **SB 47, SB 117.**

Transportation: **HB 73, HB 317, HB 399, HB 404, HJR 45.**

Energy: **SB 126, SB 127, SB 128.**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Counties and Special Districts: **HB 49.**

Calendar

HB 43, **HB 53**, **HB 182**, **HB 212**, **HB 214**, **HB 237**, **HB 271**, **HB 298**, **HB 321** and **HB 350** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 253, **HB 299**, **HB 305** and **HB 359** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 148, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of Committee Substitute to **HB 148**. Agreed.

Representative Bruce moved that **HB 148**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 2, 1990 roll call on **HB 148** - Appendix.)

HB 148, by way of Committee Substitute, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 148**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motion, Petitions and Communications

Representative Blevins moved the adoption of the following **HR 96**:

HR 96, A RESOLUTION honoring James Still upon the Fiftieth Anniversary of the publication of his novel, ***River of Earth***.

WHEREAS, James Still, of Little Carr Creek, Kentucky, is known as the leading Appalachian literary figure; and

WHEREAS, James Still, a native of Alabama, came to Hindman, Kentucky in 1932 as the librarian of the Hindman Settlement School; and

WHEREAS, James Still was known as the "foot mobile," traveling throughout Knott County delivering books to people; and

WHEREAS, James Still formerly taught at Morehead State University; and

WHEREAS, James Still published his novel, ***River of Earth*** in February, 1940, and reprinted it in 1977; and

WHEREAS, the Camden-Carroll Library at Morehead State University will host a Fiftieth Anniversary Celebration in honor of James Still, Monday, February 5, 1990, to be held in the James Still Room, fifth floor of the library tower from 2:00 p.m. until 4:00 p.m.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body salutes James Still, the leading Appalachian literary figure, for his creative works and congratulates him upon the Fiftieth Anniversary of the publication of his novel, ***River of Earth***.

Section 2. That when the House of Representatives adjourns this day, February 2, 1990, it does so in honor of James Still.

Section 3. That the Clerk of the House is ordered to transmit a copy of this resolution to Mr. James Still, Little Carr Creek, Kentucky 41822.

HR 96 was adopted by voice vote.

Representative Blevins moved that a call of the roll be taken to show co-sponsors of **HR 96.**

On the roll call the vote was yeas 76—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Gray, Gregory, J. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, A. Jones, Keith, Kerr, Layman, LeFevers, Lewis, Long, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noland, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, White, Worthington, Yates, Zimmerman. Nays 0.

Representative Brown moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Brown moved the adoption of the following **HR 97**:

HR 97, A RESOLUTION recognizing National School Counseling Week and Kentucky School Counseling Week.

WHEREAS, February 5-9, 1990 has been declared National School Counseling Week and Kentucky School Counseling Week; and

WHEREAS, this honorable body strongly supports school counselors and their constant endeavor in striving to make better citizens of our children; and

WHEREAS, school counselors form a professional family across this Commonwealth and this nation in being child advocates; and

WHEREAS, school counselors show genuine concern for students and provide an indispensable service by helping students to help themselves; and

WHEREAS, school counselors assist students in preparing for the future and coping with the present; and

WHEREAS, Angela Ripperdan Wilkins, director of the Division of Student Services for the Kentucky Department of Education, has ably given of her time and services in supporting the important role that school counselors play in the future destiny of our children;

WHEREAS, Angela Ripperdan Wilkins, a native of Meade County, will celebrate her birthday on February 2, 1990, which coincides with National School Counseling Week and Kentucky School Counseling Week;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body commends school counselors across this state for their dedication and untiring efforts on behalf of the children and families of this great Commonwealth.

Section 2. That this honorable body urges school counselors to continue their tireless effort in meeting the needs of our children who are our future.

Section 3. That this honorable body extends birthday greetings to Angela Ripperdan Wilkins on Friday, February 2, 1990, and wishes her continued success.

Section 4. That the Clerk of the House is directed to transmit copies of this resolution to Dr. John H. Brock, Superintendent of Public Instruction, Department of Education, 1703 Capital Plaza Tower, Frankfort, Kentucky 40601, and Ms. Angela Ripperdan Wilkins, P.O. Box 17, Frankfort, Kentucky 40602.

HR 97 was adopted by voice vote.

Representative Callahan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved the adoption of **HCR 99**.

The Speaker ruled that **HCR 99** must go through the same legislative process as a bill.

Representative Stumbo moved that the rules be suspended to act upon Resolutions. Agreed.

Representative Stumbo moved the adoption of the following **HR 80**:

HR 80, A RESOLUTION honoring the distinguished Luther Johnson on the occasion of his 83rd birthday, February 4, 1990.

WHEREAS, Luther Johnson was an esteemed member and officer of the Wheelwright Local of the United Mine Workers of America for 60 years; and

WHEREAS, it is most appropriate to honor this leading member and officer not only on his 83rd birthday but the 100th anniversary year of United Mine Workers of America; and

WHEREAS, Luther Johnson, a distinguished longtime resident of Wheelwright in Floyd County honorably attained the longest record of underground mining; and

WHEREAS, during Luther Johnson's 48 years of underground mining he deeply devoted himself to his large family of 16 loving children;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body salutes Luther Johnson on his 83rd birthday and 100th anniversary year of the United Mine Workers of America.

Section 2. That the House wishes Luther Johnson many more birthdays.

Section 3. That the honorable Representative Greg Stumbo will hand deliver this resolution to Mr. Luther Johnson.

HR 80 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 98**:

HR 98, A RESOLUTION honoring Monsignor Ralph Beiting for his selfless devotion to the people and the spirit of Appalachian Kentucky.

WHEREAS, this honorable body is proud to acknowledge the good works and faith of all people who strive on behalf of those who know poverty and despair; and

WHEREAS, Monsignor Beiting has, for 40 years, worked to renew this stricken area; and

WHEREAS, Monsignor Beiting abandoned his dream to become an architect and instead answered a calling to the priesthood upon learning of the enormous needs of Appalachian Kentucky; and

WHEREAS, Monsignor Beiting came to the isolated Kentucky highlands in 1950 to find "Catholics about as welcome as porcupines at a balloon party"; and

WHEREAS, Monsignor Beiting, upon learning that people in Appalachian Kentucky were first seeking food ahead of faith, used his gift of persuasion to obtain donated food items and hauled them to the needy people of Appalachia; and

WHEREAS, once fed, these people were taught to help themselves through the many projects begun by Monsignor Beiting for this purpose which include craft factories, seed and fertilizer grants for small farms, and education and illiteracy eradication programs; and

WHEREAS, Monsignor Beiting as founder and chairman of the board of the Christian Appalachian Project has reached some 45,000 people in 40 counties with 75 different programs; and

WHEREAS, Monsignor Beiting has launched projects from summer camps to centers for the elderly, handicapped, teenagers, pre-schoolers, and families in crisis; and

WHEREAS, Monsignor Beiting still finds ample time to pursue his first love of street preaching where in the early years he encountered threats and attacks upon his person, but stood firmly rooted in his faith and convictions and earned the respect and devotion of those who at first held him in contempt; and

WHEREAS, like his hero, Daniel Boone, Monsignor Beiting is a Kentucky pioneer, facing a frontier of despondency and want; and

WHEREAS, through his efforts, a measure of hope and pride has been brought back to countless Appalachian families; and

WHEREAS, Monsignor Beiting suffered serious injuries in an automobile accident January 2, 1990, one day following his 66th birthday; and

WHEREAS, Monsignor Beiting has since been released from the hospital and continues to recover from his injuries and plans to continue to serve the people and needs of Appalachia as soon as his condition allows; and

WHEREAS, this body wishes Monsignor Beiting a speedy and full recovery from his injuries and Godspeed in his return to the work of the Lord in Appalachian Kentucky

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives applauds Monsignor Ralph Beiting for his contributions to developing a spirit of community among Appalachian Kentuckians.

Section 2. That when the House of Representatives adjourns this day, Friday, the second of February, 1990, it does so in honor of Monsignor Ralph Beiting with best wishes for good health and continued success in his efforts on behalf of the people of Appalachian Kentucky.

Section 3. That the Clerk of the House is directed to send a copy of this resolution to Monsignor Ralph Beiting in care of the Christian Appalachian Project, Martin, Kentucky.

HR 98 was adopted by voice vote.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HB 13**, **HB 16** and **HB 314** have been posted for passage in Orders of the Day, February 5, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 5, 1990: **HB 97**, **HB 329**, **HB 377**.

The Committee on Rules reported **HB 43**, **HB 214**, **HB 221**, **HB 237**, **HB 321** and **HB 350** have been posted for passage in Orders of the Day, February 6, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 6, 1990: **HB 253**, **HB 299**.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 128**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HR 20**, **HCR 24**, **HCR 75**, **HB 193**, **HB 197**, **HB 259**, **HB 273**, **HB 331**, **HB 354**, **HB 460**.

Labor and Industry: **HB 487**.

Elections and Constitutional Amendments: **HB 489**.

Introduction of Bills

HB 494, by Representatives Siler and Cyrus: AN ACT relating to electric utilities.

HB 495, by Representatives Barrows and Arnold: AN ACT relating to retirement.

HB 496, by Representative Yates: AN ACT relating to hazardous materials.

HB 497, by Representative Cyrus: AN ACT relating to mining.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 214**, by Representative Kerr:

Amend printed copy of **HB 214** on page 76, lines 2 through 26, to delete the same;

And on page 77, lines 1 through 26, to delete the same;

And on page 78, lines 1 through 26, to delete the same;

And on page 79, lines 1 through 17, to delete the same;

And to renumber sections 78 through 93 with one number lower;

And on page 87, between lines 22 and 23, to add the following: "421.210 Competency of Certain Testimony".

Floor Amendment No. 1 to **HB 264**, by Representative Kerr:

Amend printed copy of **HB 264** on page 7 after line 16 by adding:

"Section 2. KRS 304.39-320 is amended to read as follows:

(1) As used in this section "underinsured motorist" means a party with motor vehicle liability insurance coverage in an amount less then a judgment recovered against that party for damages on account of injury due to a motor vehicle accident.

(2) Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage not inconsistent with this section the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the liability policy limits thereon, to the extent of the underinsurance policy limits on the vehicle of the party recovering. [~~His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays.~~]"

Floor Amendment No. 1 to **HB 182**, by Representative Reinhardt:

Amend printed copy of **HB 182** on page 4, between lines 19 and 20, to add the following:

"***In the event that it is determined after a suit has been brought against a consumer debtor wrongfully or in error in a county other than that in which the debtor resides, the debtor shall be entitled to treble damages.***"

The Clerk announced the following meetings:

The Appropriations and Revenue Subcommittee on Human Resources will meet February 5, 1990 at 2:00 p.m.

The Budget Review Subcommittee on General Government will meet February 5, 1990 at 10:00 a.m.

The Budget Review Subcommittee on Justice will meet upon adjournment.

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 5, 1990.

The motion that the House adjourn until 4:00 p.m., Monday, February 5, 1990 was adopted by voice vote.

MONDAY, FEBRUARY 5, 1990

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Ridley.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 2, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 63**.

Introduction of Bills and Resolutions

HB 498, by Representative Farrow: AN ACT relating to notaries.

HB 499, by Representative B. Richardson: AN ACT relating to insurance.

HR 100, by Representative Callahan: A RESOLUTION honoring the Newport Independent Schools' drug prevention program.

HR 101, by Representative Gregory: A RESOLUTION recognizing and honoring the Kentucky Small Business Development Center program and recommending its continuation under the University of Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolution:

Banking and Insurance: **SB 161**.

Counties and Special Districts: **HB 493**, **HB 495**.

Economic Development and Tourism: **SB 169**.

Energy: **HB 494**.

Health and Welfare: **HB 491**, **HB 492**.

Labor and Industry: **HB 496**.

Natural Resource and Environmental Protection: **SB 156**, **HB 497**.

State Government: **SB 107**.

Transportation: **HB 490**, **HCR 99**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 20** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:07 p.m.)

HB 20 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 356**, **HB 362**, **HB 391**, **HB 445**, **HB 465**.

Report of Committees

The Committee on State Government reported **HB 39**, **HB 47**, with Committee Amendment attached thereto, **HB 83**, with Committee Substitute attached thereto, **HB 196**, **HB 211**, with Committee Amendment attached thereto, **HB 215**, with Committee Substitute attached thereto, **HB 229** and **HB 270** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 39, AN ACT relating to holidays for state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.190 is amended to read as follows:

(1) State offices shall be closed and state employees shall be given a holiday on the following days:

(a) The 1st day of January plus one extra day;

(b) The 3rd Monday in February;

(c) Good Friday, one-half day;

(d) The last Monday in May;

(e) The 4th day of July;

(f) The 1st Monday in September;

(g) Presidential election day as required under KRS 2.190;

(h) ***The 11th day of November (Veterans Day);***

(i) The 4th Thursday in November plus one extra day;

(j)[~~(i)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one (1) extra day is mentioned in paragraphs (a), (h) and (i) of subsection (1), the Governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employees.

HB 47, AN ACT relating to the purchase of starch-based plastic garbage can liners by state agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 45A.005 TO KRS 45A.340 IS CREATED TO READ AS FOLLOWS:

By January 1, 1991, a minimum of fifteen (15) percent of the purchases of garbage can liners by state agencies shall be starch-based plastic garbage can liners. The percentage shall increase by five (5) percent annually until fifty (50) percent of the purchase of garbage can liners are purchases of starch-based plastic garbage can liners.

The Committee Amendment No. 1 to **HB 47** is as follows:

Amend printed copy of **HB 47** on page 1, line 3, before the word "***By***" insert "***(1)***" and

on line 9, after the word "***liners.***" insert the following:

"***(2) The Natural Resources and Environmental Protection Cabinet shall perform tests and experiments to determine whether or not it is advantageous for the Commonwealth to require use of starch-based biodegradable products or containers. The Cabinet shall report its findings to the 1992 Regular Session of the General Assembly.***"

HB 83, AN ACT relating to Kentucky writers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

Every two (2) years the governor may appoint a Kentucky state poet from among the poets laureate. The governor may assign such duties to the Kentucky state poet as he deems appropriate.

Section 2. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the department of the arts;

(5) ***Establish standards and procedures for the selection of the Kentucky poets laureate;***

(6) Advise the governor on matters pertaining to the arts;

(7)[~~(6)~~] Adopt and promulgate rules and regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(8)[~~(7)~~] Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;

(9)[~~(8)~~] Receive applications, interview and recommend to the governor three (3) persons as nominees for appointment as the director of the division of arts, department of the arts;

(10)[~~(9)~~] Contract from time to time as appropriate with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the commissioner of the department of the arts and with the state purchasing provisions of KRS Chapters 45 and 45A;

(11)[~~(10)~~] Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(12)[~~(11)~~] Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

SECTION 3. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) April 24 of each year is declared to be "Kentucky Writers Day."

(2) The Kentucky department of the arts may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

The Kentucky department for libraries and archives shall establish and maintain, as funds permit, a central clearinghouse for information on Kentucky authors, including a statewide locator index of works and collections held by libraries in Kentucky.

SECTION 5. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a fund to carry out the purposes of this Act.

(2) The fund shall consist of all revenues derived from donations, grants from governmental or private sources, or state appropriations.

The Committee Substitute to **HB 83** is as follows:

HB 83. AN ACT relating to Kentucky writers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) Every two (2) years the Governor may appoint a Kentucky state poet laureate or writer laureate for a maximum term of two (2) years.

(2) The duties of the poet laureate or writer laureate shall be to:

(a) Make a presentation on Kentucky Writers Day as authorized in Section 3 of this Act;

(b) Act as a writing consultant to the state Department of Education and Kentucky Department for Library and Archives.

(3) The Kentucky poet laureate or writer laureate shall serve without salary except that he may be reimbursed for expenses.

Section 2. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the department of the arts;

(5) *Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;*

(6) Advise the Governor on matters pertaining to the arts;

(7)[~~(6)~~] Adopt and promulgate [~~rules and~~] regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(8)[~~(7)~~] Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;

(9)[~~(8)~~] Receive applications, interview and recommend to the governor three (3) persons as nominees for appointment as the director of the division of arts, department of the arts;

(10)[~~(9)~~] Contract from time to time as appropriate with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the commissioner of the department of the arts and with the state purchasing provisions of KRS Chapters 45 and 45A;

(11)[~~(10)~~] Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(12)[~~(11)~~] Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

SECTION 3. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) April 24 of each year is declared to be "Kentucky Writers Day."

(2) The Kentucky Department of the Arts may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department for Libraries and Archives shall establish and maintain, as funds permit, a central clearinghouse for information on Kentucky authors, including a statewide locator index of works and collections held by libraries in Kentucky.

SECTION 5. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a fund to carry out the purposes of this Act.

(2) The fund shall consist of all revenues derived from donations, grants from governmental or private sources, or state appropriations.

HB 196, AN ACT relating to park rangers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.056 is amended to read as follows:

(1) The commissioner of parks, in his discretion, may employ and commission park rangers as the commissioner deems necessary to secure the parks and property of the Department of Parks and to maintain law and order and such employes, when so commissioned, shall have ***on all property under the control of the Department of Parks and on all public highways connected with the regular patrol of said property in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables and police officers in their respective jurisdictions, and shall possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables and police officers in any suit brought against them in consequence of acts done in the course of their employment*** [~~all of the powers of peace officers and shall have on all parks property and on public highways transversing such property in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables and police officers in their respective jurisdictions, and shall possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables and police officers in any suit brought against them in consequence of acts done in the course of their employment~~].

(2) The designation of any such employe as a peace officer shall be governed by the provisions of KRS 61.300 except that he shall not be required to have resided in the county wherein he is to serve for a period of at least two (2) years, and he shall be required to file his photograph and affidavit only with the Franklin county clerk.

(3) Any employe so commissioned shall be required to execute bond, subject to the provisions of KRS 62.170, for the faithful and lawful performance of his duties.

HB 211, AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) At any level of appeal provided for in this chapter at which state employees prevail, attorney fees shall be paid by the Commonwealth of Kentucky. These fees shall be paid either out of the operating budget of the state agency responsible for the punitive action, or from monies appropriated for this specific purpose.

(2) Irrespective of the source of funds, the payment of fees mandated by subsection (1) of this section shall be made in accordance with the provisions of KRS 45.453 through 45.458.

The Committee Amendment No. 1 to **HB 211** is as follows:

Amend printed copy of **HB 211** on page 1, line 4, after the word "***prevail,***" insert the following:

"***reasonable***"

HB 215, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit.[~~, but in no case shall~~] It ***shall not*** allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except***:***

(a) As provided in KRS 61.546 and in subsection (2) of this section***; or***

(b) In those cases where an individual simultaneously earns service credit in more than one (1) retirement system administered by the Kentucky Retirement Systems. Service credit earned simultaneously in more than one (1) retirement system administered by the Kentucky Retirement Systems shall not be consolidated for the purpose of determining eligibility and amount of benefits pursuant to KRS 61.680.

(2) Employees participating in one (1) of the state administered retirement systems who are or have been employed by a school district participating in the County Employees Retirement System to work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employee or the school district may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment must be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. Members who have service credit prior to July 1, 1986, or their employers, may purchase service credit for previous years if payment is made by August 1, 1987.

The Committee Substitute to **HB 215** is as follows:

HB 215, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit.[~~, but in no case shall~~] It ***shall not*** allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) Employees participating in one (1) of the state administered retirement systems who are or have been employed by a school district participating in the County Employees Retirement System to work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employee or the school district may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment must be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. Members who have service credit prior to July 1, 1986, or their employers, may purchase service credit for previous years if payment is made by August 1, 1987.

(3) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

Section 2. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system***, except a person who did not elect membership pursuant to KRS 61.545(3)***;

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following such department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership is limited to employees of state government and their families;

(4) All persons who were professional staff employees of the council on higher education or the higher education assistance authority and were contributing to the system on the effective date of executive order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system;

(5) All persons who were professional staff employees of the Kentucky authority for educational television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d); and

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state administered retirement fund within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 3. KRS 61.543 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless ***the employee*** [~~such person~~] did not elect to become a member as provided by subsection (2) of KRS 61.525***, or unless the employee did not elect membership pursuant to KRS 61.545(3)***. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month such contributions are deducted or picked up during a fiscal or calendar year, provided the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555;

(b) A member on educational leave, approved by the department of personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or such contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and

(c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during such period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund erroneous employer and employee contributions made to the retirement system.

Section 4. KRS 61.560 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, ***unless he did not elect membership pursuant to KRS 61.545(3), and*** except that members of the General Assembly, who elect the survivorship option provided in subsections (13) and (14) of KRS 61.635, shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 through 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.

(4) Each employer shall, solely for the purpose of compliance with section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining

tax treatment under the United States Internal Revenue Code and KRS 141.010(9). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 5. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers ***except those who do not choose to participate pursuant to KRS 61.545(3).***

(2) No person who is age thirty-one (31) or over shall be eligible to become an employee of the Kentucky State Police.

(3) Membership in the system shall not include those employees who are simultaneously contributing to another state administered retirement fund within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 6. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date such county first participates in the system, ***except a person who did not elect membership pursuant to KRS 61.545(3), and*** except that mayors and members of city legislative bodies may decline to participate in the system and city managers or other appointed local government executives who participate in a retirement system, other than social security, which operates in more than one (1) state, may decline to participate in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 7. KRS 78.610 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1986, contribute for each pay period, for which he receives compensation four and twenty-five hundredths percent (4.25%) of his creditable compensation ***unless he did not elect membership pursuant to KRS 61.545(3).*** Any other provisions of KRS 78.510 to 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four and twenty-five hundredths percent (4.25%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system, including the assumed creditable compensation of firefighters employed by a district created pursuant to KRS 75.010, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employee contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation

provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982. Employee contributions of volunteer firefighters based upon an assumed salary pursuant to KRS 78.510(13) shall not be picked up by the employer.

Section 8. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless such person did not elect to become a member as provided by ***KRS 61.545(3) or by*** subsection (2) of KRS 78.540. After August 1, 1982, except in the case of volunteer firefighters whose creditable compensation is based upon an assumed salary, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4). Service credit will be allowed for each month such contributions are deducted or picked up during a fiscal or calendar year, provided the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month, except in the case of school bus drivers for school boards in which event the school term average shall be eighty (80) hours of work per month, or except in the case of volunteer firefighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees. If the average number of hours of work is less than one hundred (100) hours per month, or in the case of school bus drivers eighty (80) hours per month, or in the case of volunteer firefighters less than the work requirement set by the district board of trustees, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work, or in the case of school bus drivers eighty (80) hours of work or in the case of volunteer firefighters those months in which he satisfies the work requirements set by the district board of trustees.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state department of personnel for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions or such contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employee contributions made to the retirement system.

Section 9. Any employee or former employee not retired who participated in more than one (1) retirement system administered by the Kentucky Retirement Systems prior to July 15, 1990 may retroactively choose to receive and shall be granted full service credit for time served in one (1) of those systems, and thereby shall relinquish service credit in the other systems for the same time period, and his contributions related to the relinquished credit shall be refunded.

HB 229, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective August 1, 1988, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) for the County Employees Retirement System and one and ninety-one hundredths percent (1.91%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, provided such member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of such computed actuarial cost shall be paid from the state treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service. in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky Employees Retirement System or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member ***of the Kentucky Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, or of the County Employees Retirement System*** who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education may count such vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. Such credit from a Kentucky institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852 a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service, may elect to receive an annual retirement allowance payable monthly or less frequently as determined by the board which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or

(d) The member ***of the County Employees Retirement System*** has thirty (30) or more years of service at least fifteen (15) of which are current service***, or the member of the Kentucky Employees Retirement System has twenty-seven (27) or more years of service, at least fifteen (15) of which are current service***; or

(e) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

HB 270, AN ACT relating to the flag of the United States.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.050 is amended to read as follows:

(1) Printing or lettering of any kind on the flag of the United States, or the use of the flag for advertising purposes in any manner, is prohibited.

(2) Nothing in this section or in KRS 2.060 shall prohibit a newspaper from publishing a picture of the flag of the United States next to the obituary of a deceased active member or honorably discharged veteran of the United States military service.

Orders of the Day

HB 136, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Substitute to **HB 136**. Agreed.

Representative Scorsone moved that **HB 136**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 10. (See February 5, 1990 roll call on **HB 136** - Appendix.)

HB 136, by way of Committee Substitute, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 136**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 314**. Agreed.

Representative Long moved that **HB 314**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 5, 1990 roll call on **HB 314** - Appendix.)

HB 314, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 314**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 97 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HB 97** be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See February 5, 1990 roll call on **HB 97** - Appendix.)

HB 97 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 97** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 377** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 5, 1990 roll call on **HB 377** - Appendix.)

HB 377 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 377** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 16 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 16** be passed.

On the roll call the vote was: Yeas 98, Nays 1. (See February 5, 1990 roll call on **HB 16** - Appendix.)

HB 16 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 16** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 243** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills and Resolutions

HB 500, by Representative Lewis: AN ACT relating to crimes and punishments.

HB 501, by Representative Burch: AN ACT relating to missing children.

HB 502, by Representative Ackerson: AN ACT relating to nursing.

HB 503, by Representative Crupper: AN ACT relating to a referendum of milk producers.

HB 504, by Representative Northup: AN ACT relating to child abuse and neglect.

HB 505, by Representative Northup: AN ACT relating to elections to public office and the financing of campaigns therefor.

HB 506, by Representative Scorsone: AN ACT relating to court appointed special advocates.

HB 507, by Representative McElroy: AN ACT relating to the uniform act on paternity.

HB 508, by Representative McElroy: AN ACT relating to retirement.

HB 509, by Representative T. Jones: AN ACT relating to motor vehicles.

HB 510, by Representatives Riner and Burch: AN ACT relating to chemical dependency treatment.

HB 511, by Representative Heleringer: AN ACT relating to civil commitment.

HR 102, by Representative Rapier: A RESOLUTION honoring Mary Nanze.

HR 103, by Representatives Freibert and Richards: A RESOLUTION recognizing the importance of Kentucky Educational Television and its service to the General Assembly.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 232.**

Health and Welfare: **HB 118, HB 139, HB 324, HB 425, HB 482.**

Labor and Industry: **HB 372, HB 373, HB 395, HB 433, HB 438, HB 459, HB 496.**

Education: **HB 205, HB 378, HB 424, HB 443, HB 463, HB 468, HB 484.**

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representative Cline; **HB 13**, Representative Sheehan; **HB 47**, Representative Sheehan; **HB 62**, Representatives Casebier, Curtsinger, J. Harper; **HB 65**, Representative Blandford; **HB 78**, Representative Casebier; **HB 97**, by Representative Nelson; **HB 197**, Representatives Bruce, Morris; **HB 221**, Representative Jensen; **HB 314**, Representative Ackerson; **HB 329**, Representative Altman; **HB 333**, Representatives Long, Nelson, Noland, Riner, Stokes; **HB 486**, Representative Farrow; **HCR 99**, Representatives K. Harper, Walker; **HJR 17**, Representatives Ackerson, Bronger, Burch, P. Clark, Gray, Hatcher, Heleringer, Nett, O'Brien, Priddy, Riner, Ward.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 62**, by Representative Scorsone:

Amend printed copy of HCS for **HB 62** on page 1, line 15, by deleting the phrase "***the effective date of this***" and inserting in lieu thereof "***October 15, 1990***"

And on page 1, line 16, by deleting the word "***Act***"

And on page 2, line 8, by deleting the words "***subject to such dollar limitations,***" and by inserting in lieu thereof a period "."

And on page 2, line 8, by inserting in front of the word "***deductibles***" the word "***Any***"

And on page 2, line 9, by deleting the words "***as are***" and inserting in lieu thereof "***shall be***"

And on page 2, line 9, by inserting after the words "***than for***" the words "***coverage for***"

And on page 2, line 25, by deleting the year "***1991***" and inserting in lieu thereof the year "***1990***".

Floor Amendment No. 1 to the Committee Substitute to **HB 43**, by Representative Ward:

Amend printed copy of HCS for **HB 43** on page 2, line 10 by deleting "***a***" and inserting "***an ex parte***" in lieu thereof;

On page 2, line 11 by inserting after the period "." the following:

"***The student shall not be charged District Court filing fees.***";

On page 2, line 23 by deleting "***Any person***" and inserting "***The student, if***" in lieu thereof;

On page 2, line 24 after "***section***" insert a comma "***,***"; and

On page 14, after line 3 by adding the following:

"Section 6. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be paid to the clerk at the time the case is filed and shall be thirty dollars ($30.00), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be fifteen dollars ($15.00);

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10.00);

(c) Where the case involves the appointment of guardians, conservators, and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10.00) for each appointment;

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10.00);

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10.00);

(f) Where the case involves mental health proceedings under KRS Chapter 202A, 202B or 387, there shall be no fee except as provided in paragraph (c) of this subsection; [~~and~~]

(g) ***Where the case involves a hearing for a student pursuant to Section 1 of this Act there shall be no fee; and***

(h) Filing forcible detainer actions . . . . $10.00.

(2) Additional fees shall be charged in district court civil cases as follows:

(a) Filing a third-party complaint $10.00

(b) Preparing a certification . . . . $ 1.00

(c) Providing a copy of a document (per page) . . . . $ .15

(d) Issuing orders of attachment; executions; writ of possession after judgment $10.00

(e) Issuing garnishments . . . . $ 2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

For a jury of six (6) persons $12.50

(5) The following fee shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

Service of process (per process) $10.00

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs."

Floor Amendment No. 3 to the Committee Substitute to **HB 107**, by Representative Blevins:

Amend printed copy of HCS for **HB 107** on page 1, line 15, by deleting the word "***schools***" and inserting in lieu thereof the word "***programs***"

And on page 1, line 16, by deleting the word "***programs***" and inserting in lieu thereof the word "***schools***"

And on page 2, line 3, by inserting after the phrase "***scholarship fund***" the following "***and may recover reasonable costs for administering the fund***"

And on page 2, line 6, by deleting the word "***registered***"

And on page 2, line 15, by inserting the word "***licensed***" preceding the word "***practical***"

And on page-2, line 25, by deleting the words "***hospital, primary care center or long-term care***" and substituting in lieu thereof the word "***health***"

And on page 3, line 2, by deleting the words "***nursing schools, both public and private, for the***" and inserting in lieu thereof the words "***approved applicants***"

And on page 3, by deleting all of line 3,

And on page 3, line 4, by deleting the words "***contracts entered into pursuant to this section***"

And on page 3, line 17, by deleting the words "***These funds shall be matched by primary care***" and substituting in lieu thereof the following words: "***All funds dispersed to a qualified applicant shall be matched by the sponsoring health facility participating as the applicant's sponsor in the Kentucky nursing incentive scholarship fund program***"

And on page 3, by deleting lines 18 through 20 in their entirety,

And on page 3, line 24, by inserting after the words "***shall be***" the word "***annually***"

And on page 4, line 4, by inserting after the word "***individual***" the words "***designated as a recipient and***"

And on page 4, line 7, by inserting after the words "***to practice***" the words "***in Kentucky***"

And on page 4, line 8, by deleting the words "***primary care center, Kentucky***" and inserting in lieu thereof the word "***health***"

And on page 4, line 9, by deleting the words "***hospital or long-term care***"

And on page 4, line 13, by inserting after the words "***board president***" the words "***or executive director***"

And on page 4, line 13, by deleting the word "***primary***" and inserting in lieu thereof the word "***health***"

And on page 4, line 14, by deleting the words "***care center, hospital or long-term care***"

And on page 4, line 17, by inserting after the words "***any applicant***" the words "***or recipient***"

And on page 4, line 17, by inserting after the words "***the applicant***" the words "***or recipient***".

Floor Amendment No. 1 to **HB 13**, by Representative LeMaster:

Amend printed copy of **HB 13** on page 1, line 16, by deleting the word "***may***" and inserting in lieu thereof the word "***shall***".

Floor Amendment No. 2 to the Committee Substitute to **HB 62**, by Representative Scorsone:

Amend printed copy of HCS for **HB 62** on page 1, line 15, by deleting the phrase "***the effective date of this***" and inserting in lieu thereof "***October 15, 1990***"

And on page 1, line 16, by deleting the word "***Act***"

And on page 2, line 8, by deleting the words "***subject to such dollar limitations,***" and by inserting in lieu thereof a period "."

And on page 2, line 8, by inserting in front of the word "***deductibles***" the word "***Any***"

And on page 2, line 9, by deleting the words "***as are***" and inserting in lieu thereof "***shall be***"

And on page 2, line 10, by deleting the words "***physical illness generally***" and by inserting in lieu thereof "***other coverage***"

And on page 2, line 23, by deleting the year "***1991***" and inserting in lieu thereof the year "***1990***".

The Clerk announced the following meetings:

The Committee on Natural Resources and Environmental Protection, February 6, 1990 at 12 noon.

The Committee on Agriculture and Small Business, February 6, 1990 at 8:30 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 6, 1990.

On the roll call the vote was yeas 93—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 1—Lile.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 6, 1990

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Ray Chamberlin, Faith Baptist Church, Cynthiana.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative B. Richardson.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 5, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage **SB 88, SB 103.**

Introduction of Bills and Resolutions

HB 512, by Representative Scorsone: AN ACT relating to domestic violence.

HB 513, by Representatives Gedling and Allen: AN ACT relating to the use of spotlights.

HB 514, by Representative Hancock: AN ACT relating to the Kentucky National Guard and declaring an emergency.

HB 515, by Representative Gregory: AN ACT relating to volunteer fire departments.

HB 516, by Representatives Callahan and Donnermeyer: AN ACT relating to fireworks.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 503.**

Appropriations and Revenue: **HB 509.**

Banking and Insurance: **HB 499.**

Business Organizations and Professions: **HB 502.**

Elections and Constitutional Amendments: **HB 505, SB 63.**

Health and Welfare: **HB 501, HB 506, HB 510.**

Judiciary: **HB 498, HB 500, HB 504, HB 507, HB 508, HB 511.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Energy: **HB 398.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 369** and **HB 389** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 369, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 260.036 TO 260.040 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may establish a logo or labeling statement for use in identifying agricultural products that have been grown, processed, or manufactured in this state. The commissioner may develop

labeling statements that apply to specific marketing or promotional needs. One version of the labeling statement may identify food products certified by the department as organically grown in this state. The agriculture logo or labeling statement may be used on processed or manufactured products produced in this state.

(2) The logo or labeling statement shall not be used without a license from the commissioner except that wholesalers and retailers may use the logo or labeling statement for displaying and advertising products that qualify for use of the logo or labeling statement.

(3) The logo or labeling statement shall not supersede or replace any federal or state label or grade statement that is required by law.

(4) A person shall not use the agricultural logo or labeling statement without an annual license from the commissioner. The commissioner shall issue a license for a fee of five dollars ($5.00), and the commissioner may charge a late fee of ten dollars ($10.00) for renewal of a license that has expired thirty (30) days after the date of renewal. The logo fund account is established within the department. All license fees, receipts, and penalties collected under the provisions of this Act shall be credited to the fund for use in implementing and enforcing this Act and to advertise and promote the agriculture logo.

(5) In order to accomplish the purposes of this Act, the commissioner may participate jointly with private persons in appropriate logo programs and projects and may enter into contracts necessary to carry out those programs and projects.

(6) The commissioner may promulgate administrative regulations as may be necessary to authorize the use and licensing of the agriculture logo or labeling statement.

(7) It shall be the duty of the department, or upon the request of the Commissioner of Agriculture of the Attorney General, to bring an action for the recovery of the penalties provided in this Act, and to bring an action for an injunction against any person, corporation, enterprise, or business entity violating or threatening to violate any of the provisions of this Act or the administrative regulations promulgated pursuant to this Act.

(8) A person who is required to have a license to use the Kentucky agricultural pride logo or labeling statement and uses the logo or labeling statement without a license after being notified by the commissioner that a license is required shall be liable to a civil penalty not to exceed the sum of one hundred dollars ($100) for the violation, and an additional civil penalty not to exceed one hundred dollars ($100) for each day during which the violation continues. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department, or upon the department's request, by the Attorney General.

HB 389, AN ACT relating to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.110 is amended to read as follows:

When [~~(1) Whenever~~] the board or any of its authorized agents ***determines*** [~~determine~~] that any domestic animal is infected with or exposed to any communicable disease and that to prevent the spread of disease it is necessary to destroy or slaughter that animal, the animal shall be [~~appraised and~~] destroyed or slaughtered, and the owner indemnified as provided in KRS 257.120.

[~~(2) The authorized agent of the board shall act as an appraiser, and the owner shall select as the other appraiser any disinterested person who is a bona fide resident of the county in which the appraisal is made, who is a resident holder of real property in the county and who is well informed as to the value of animals. In case of disagreement, these two (2) appraisers shall select a third person, who shall have the same qualifications as the appraiser selected by the owner. The appraisers shall consider the value of the animal at the time of appraisal, keeping in mind the fact that the animal is diseased. After the appraisal has been agreed upon, the board or its authorized agent shall proceed in the best manner possible to destroy or slaughter the animal, having in view at all times the disposition of the carcass in the best and safest manner.~~]

Section 2. KRS 257.130 is amended to read as follows:

In case of an epizootic of such character as to necessitate the destruction of property or materials to prevent the spread of disease, the property or materials ***shall*** [~~may~~] be [~~appraised and~~] destroyed and indemnities paid as provided for in KRS 257.110, 257.120, 257.140 and 257.150 for the [~~appraisal,~~] destruction or slaughter[~~,~~] and the payment of indemnities for animals.

Section 3. KRS 257.140 is amended to read as follows:

[~~Whenever an appraisal has been agreed upon,~~] The owner shall, before indemnities are paid, thoroughly clean and disinfect the premises and any animal that has been exposed to infection, as the board, or its authorized agent, may determine. ***The*** [~~Such~~] disinfection shall be done at the expense of the owner and under the supervision of the board or its authorized agent.

Section 4. KRS 257.150 is amended to read as follows:

After [~~appraisal has been agreed upon,~~] disinfection has been completed and the carcass has been disposed of, the board shall execute a voucher upon the Finance and Administration Cabinet for the amount of the indemnity due the owner, for payment from funds appropriated for this purpose. The voucher shall be approved by the state veterinarian and the chairman of the board. When the check for payment is issued by the State Treasurer, he shall forward it to the chairman of the board who shall pay it to the owner.

Section 5. KRS 246.210 is amended to read as follows:

(1) The department or its agents shall have free access within reasonable hours to any farm, orchard, garden, elevator, warehouse, building, cellar, freight or express office or car, freight yard, vehicle, vessel, boat, container or any other place which, for probable cause, it may be necessary or desirable for the agents to enter in order to enforce a quarantine against the European corn borer (Pyrausta nubilaslis).

(2) The board or any of its members or representatives may after reasonable notice enter any premises for the purpose of inspecting or testing livestock to determine the existence of, or to combat in any way, communicable diseases. The owner of the livestock to be tested or inspected shall, after reasonable notice, confine and present ***the*** [~~such~~] livestock to the representatives of the board. ***When*** [~~Whenever~~] the board or any of its representatives ***determines*** [~~determine~~] through inspection or testing that any livestock is infected with a communicable disease, they may enter any premises after reasonable notice and remove [~~therefrom~~] the diseased livestock [~~after an appraisal has been made as provided in KRS 257.110~~], and have ***the*** [~~such~~] livestock destroyed or slaughtered and the owner indemnified as provided in KRS 257.120 to KRS 257.150. When necessary the board or any of its members or representatives may call upon peace officers for assistance. ***The*** [~~Such~~] officers shall render assistance when ordered to do so by the board or any of its members, representatives, agents or employees.

(3) A sealer of agricultural warehouses appointed under KRS 251.120 may at all times enter upon any premises to inspect grain in storage or the granary, crib, bin or other receptacle in which it has been stored.

(4) The state entomologist or his authorized agent shall, upon previous application, have free access within reasonable hours to any premises or containers for purposes of trapping, inspecting for, investigating or treating the premises for the control of Japanese beetles (Popillia japonica). In the capacity of state inspector of apiaries, he may, personally or by deputy, at his discretion, visit private premises during reasonable business hours and inspect any apiary to ascertain the existence of, or to treat or destroy any disease in the egg, larval, pupal or adult stages among bees or brood.

(5) The director of the agricultural experiment station and his agents shall have free access at all reasonable hours to any premises, vehicle, elevator or steamship company, in the discharge of his duties under KRS 250.130.

Section 6. KRS 257.990 is amended to read as follows:

(1) Any person who violates any regulation promulgated by the board under the provisions of this chapter, for the violation of which no other penalty is provided in this section, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or be imprisoned not more than thirty (30) days, or both.

(2) Any person who violates KRS 257.040 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(3) Any person who violates KRS 257.050 shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.

(4) Any person who violates subsection (1) of KRS 257.060 shall be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500) for the first offense; for each subsequent offense he shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.

(5) Any person who violates subsection (2) of KRS 257.060 shall be fined not more than one thousand dollars ($1,000).

(6) Any person who violates any of the provisions of KRS 257.080[~~, subsection (2) of KRS 257.160,~~] or KRS 257.180 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) ***Any person who violates any of the provisions of KRS 257.160 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense. For each subsequent offense, he shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or be imprisoned not more than thirty (30) days, or both.***

(8) Any person who violates any ruling of the board or who hinders any agent of the board in carrying out the duties assigned to him, or any officer who refuses to enforce the provisions of this chapter when called upon by the board to do so, or any other person who in any way attempts to hinder or obstruct the board in carrying out the provisions of this chapter shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) for each offense.

(9)[~~(8)~~] Any person who violates any provision of KRS 257.330 to 257.350 or the regulations made thereunder for carrying out their provisions, or who fails or refuses to comply with or intends to deceive or who answers or represents falsely in response to any requirement of KRS 257.330 to 257.350, or who wilfully interferes with the ***Animal Health*** [~~livestock sanitary~~] Division of the Department of Agriculture, or state veterinarian, their employees or agents, in the carrying out of their duties provided in KRS 257.330 to 257.350, shall be guilty of a misdemeanor. Any person who shall violate any of the provisions of KRS 257.330 to 257.350 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars ($500).

(10)[~~(9)~~] Any person, firm or corporation who shall violate any provision of KRS 257.370 to 257.460 or any rule or regulation made under authority thereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars ($500) for each offense.

(11)[~~(10)~~] Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an officer under KRS 257.490 or who willfully refuses to obey his lawful orders shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than thirty (30) days, or both.

(12)[~~(11)~~] Any livestock dealer who violates any provision of KRS 257.530 shall be fined twenty-five dollars ($25.00) for the first offense and not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each succeeding offense.

The Committee on Energy reported **SB 126**, **SB 127** and **SB 128** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 126, AN ACT relating to deep oil and gas wells.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.652 is amended to read as follows:

(1) Upon the application of any operator in a ***deep well*** pool productive of oil or gas, or both, and other minerals which may be associated and produced therewith and after notice given by the commission to all persons reasonably known to own an interest in the oil or gas in ***the*** [~~such~~] pool, and after a hearing, the commission may enter an order requiring the unit operation of a pool or of any portion or combinations thereof within a field. ***The*** [~~Such~~] unit operation shall be in connection with a program designed to avoid the drilling of unnecessary wells, or otherwise to prevent waste, or to increase the ultimate recovery of the unitized minerals by additional recovery methods. The order shall provide for the unitization of separately owned tracts and interests within ***the*** [~~such~~] pool or pools, but only after finding that:

(a) ***The*** [~~Said~~] order is reasonably necessary for the prevention of waste;

(b) The proposed plan of unitized operation will increase the ultimate recovery of oil or gas, or both, from the pool and will be economically feasible;

(c) The production of oil or gas, or both, from the unitized pool can be allocated in such a manner as to insure the recovery by all owners of their just and equitable share of ***the*** [~~such~~] production; and

(d) A contract incorporating the unitization agreement has been signed or in writing ratified or approved by the owners of at least seventy-five percent (75%) in interest as costs are shared under the terms of the order and by seventy-five percent (75%) in interest as production is to be allocated of the royalty in the unit area, and a contract incorporating the required arrangements for operations has been signed or in writing ratified or approved by the owners of at least seventy-five percent (75%) in interest as costs are shared, and the commission has made a finding to that effect either in the order or a supplemental order.

(2) The order requiring ***the*** [~~such~~] unit operation shall designate one (1) operator as unit operator and shall also make provision for the proportionate allocation to all operators of the costs and expenses of the unit operation, including a reasonable charge for supervision, which allocation shall be in the proportion that the separately owned tracts share in the production from the unit. In the absence of an agreement entered into by the operators and filed with the commission providing for sharing the costs of capital investments in wells and physical equipment, and intangible drilling costs, the commission shall provide by order for the sharing of ***the*** [~~such~~] costs in the same proportion as the costs and expenses of the unit operation; provided, that any operator who has not consented to the unitization shall not be required to contribute to the costs or expenses of the unit operation, or to the cost of capital investment in wells and physical equipment, and intangible drilling costs, except out of the proceeds from the sale of the production accruing to the interest of ***the*** [~~such~~] operator exclusive of any royalty or overriding royalty interest.

(3) The commission, after notice and hearing as provided above may from time to time by entry of a new or amending order enlarge the unit area by approving agreements adding to ***the*** [~~such~~] area a pool or any portion or combinations thereof not previously included. Any such order shall not become effective unless and until:

(a) All of the terms and provisions of the unitization agreement relating to the extension or enlargement of the unit area or to the addition of pools or portions or combinations thereof to unit operations have been fulfilled and satisfied and evidence thereof has been submitted to the commission; and

(b) The extension or addition effected by ***the*** [~~such~~] order has been agreed to in writing by the owners of at least seventy-five percent (75%) in interest as costs are shared in the pool or pools or portions or combinations thereof to be added to unit operations by ***the*** [~~such~~] order and by seventy-five percent (75%) in interest as production is to be allocated of the royalty owners in ***the*** [~~said~~] pool, pools, portions or combinations and evidence thereof has been submitted to the commission.

(4) Any agreement, in providing for allocation of production from the unit area, shall first allocate to each pool or ***added*** portion [~~thereof so added~~] a portion of the total production of oil and gas, or both, from all pools affected within the area, as enlarged, ***the*** [~~such~~] allocation to be in proportion to the contribution which added pool or portions or extensions thereof are expected to make, during the remaining course of unit operations, to the total production of oil or gas, or both, of the unit as enlarged. The remaining portion of unit production shall be allocated among the separately owned tracts within the previously established unit area in the same proportions as those specified prior to the enlargement.

Section 2. KRS 353.653 is amended to read as follows:

Each operator shall have the right to take in kind its share of any oil or gas produced from any drilling unit or pool unitized under KRS 353.510, 353.520, 353.565, 353.610, 353.651-353.654, 353.700, 353.991. ***The***[~~, provided, however that such~~] operator shall pay the expenses occasioned thereby and ***pay*** [~~pays~~] or ***account*** [~~accounts~~] to the unit operator for ***the*** [~~such~~] oil or gas or the value thereof if he has not paid his share of drilling, completing and operating costs. ***This section applies to deep well drilling units only.***

Section 3. KRS 353.654 is amended to read as follows:

Nothing contained in KRS 353.510, 353.520, 353.565, 353.610, 353.651-353.654, 353.700, 353.991 shall be construed as authorizing any operator, with or without an order of the commission, to drill upon, enter upon, or use in any manner the surface of any land without the consent of the owner thereof as evidenced by an oil or gas lease or otherwise. ***This section applies to deep well drilling units only.***

SB 127, AN ACT relating to oil and gas well permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.590 is amended to read as follows:

(1) Any person[~~,~~] seeking a permit required by KRS 353.570[~~,~~] shall submit to the department a written application in ***a*** [~~such~~] form [~~as may be~~] prescribed by the department.

(2) Each application shall be accompanied by a specified fee as follows:

(a) The fee shall be one hundred dollars ($100) for each well to be drilled, deepened or reopened for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.

(b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended), the department may, by regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars

($50.00) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen or reopen a well for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the underground injection control program less any other state or federal funds which are made available for ***this*** [~~such~~] purpose.

(c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended).

(3) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.

(4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the [~~rules and~~] regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by ***a land surveyor.*** [~~the applicant, a qualified employe of the applicant, a person approved by the department, or an engineer registered in Kentucky, provided that~~] When the location of the well is known to be underlaid by coal-bearing stratum, ***the*** [~~such~~] plat shall be certified accurate and correct [~~only~~] by ***both a land surveyor and*** an engineer registered in Kentucky. If any plat submitted by an applicant is determined by the department to be materially inaccurate or incomplete, the department may require that a new plat be prepared and submitted either by a person approved by the director or an engineer registered in Kentucky. The department may further require that all future plats submitted by ***the*** [~~such~~] an applicant be prepared either by a person approved by the director or an engineer registered in Kentucky.

(5) When any person submits to the department of mines and minerals an application for a permit to drill a well, or to reopen, deepen or temporarily abandon any well which is not covered by surety bond, the department shall except as provided in this section, require from the well operator a bond in the sum of ***five hundred dollars ($500) for a well to be drilled to a depth of five hundred feet (500') or less; one thousand dollars ($1,000) for a well to be drilled to a depth between five hundred and one feet (501') and one thousand feet (1,000'); one thousand five hundred dollars ($1,500) for a well to be drilled to a depth between one thousand and one feet (1,001') and one thousand five hundred feet (1,500'); two thousand dollars ($2,000) for a well to be drilled to a depth between one thousand five hundred and one feet (1,501') and two thousand feet (2,000'); two thousand five hundred dollars ($2,500) for a well to be drilled to a depth between two thousand and one feet (2,001') and two thousand five hundred feet (2,500'); three thousand dollars ($3,000) for a well to be drilled to a depth between two thousand five hundred and one feet (2,501') and three thousand feet (3,000'); three thousand five hundred dollars ($3,500) for a well to be drilled to a depth between three thousand and one feet (3,001') and three thousand five hundred feet (3,500'); four thousand dollars ($4,000) for a well to be drilled to a depth between three thousand five hundred and one feet (3,501') and four thousand feet (4,000'); and five thousand dollars ($5,000) for a well to be drilled to a depth of more than four thousand feet (4,000'). The bonds shall be made*** [~~$1,000~~] in favor of the Department of Mines and Minerals, conditioned that the ***wells*** [~~well~~] upon abandonment shall be plugged in accordance with the [~~rules and~~] regulations of the department and that all records required by the department be filed as specified. ***An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well, and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized except pursuant to regulations promulgated by the department. The commission may establish a bond in a sum greater than five thousand dollars ($5,000) for any well to be drilled to a depth of more than four thousand feet (4,000') if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established above. All bonds*** [~~The bond~~] shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of ***the*** [~~such~~] bond may file with the department a blanket bond in a sum of ***ten thousand dollars ($10,000)*** [~~$5,000~~], covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of ***the*** [~~such~~] blanket bond shall be in full compliance with the above provision requiring an individual well bond. ***A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds, and a property bond may be executed by an operator who owns all of the surface and mineral rights of a tract proposed for drilling. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars ($5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars ($5,000).*** The bond or bonds referred to in this section shall be executed by the well operator as principal and, ***if a surety bond,*** by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds***; all cash bonds accepted by the department***

shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection (9) of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on the date of enactment of this Act shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund. The bond amounts shall be applicable only to permits issued upon and after the effective date of this Act. All bonds posted for permits issued prior to the effective date of this Act shall remain in full force and effect for the duration of the permits.

(6) ***A successor to the well operator shall post bond and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee*** [~~Notification in writing to the department by a successor to the well operator with bond as provided in subsection (5) that said successor is assuming the obligations of this chapter as to a particular well or wells, will relieve the original permittee of responsibility under this chapter with respect to such well or wells~~].

(7) If the requirements of subsection (5) ***of this section*** with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall [~~then~~] be forfeited to the department.

(8) ***A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director*** [~~When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture~~].

(9) All sums received through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, ***which shall be an interest-bearing account with the interest thereon payable to the fund.*** This fund shall be available to the department and ***shall*** [~~may~~] be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for ***the*** [~~such~~] plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

(10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of ***the*** [~~said~~] hole confidential until ***the*** [~~such~~] information is allowed to be released by the person obtaining such permit.

(11) For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock***; or***[~~;~~]

(b) Any water well used primarily for cooling purposes in an industrial process.

SB 128, AN ACT relating to penalties for oil and gas violations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.991 is amended to read as follows:

(1) Any person who violates any provision of KRS 353.570 shall be subject to a fine of not more than ***one thousand*** [~~two hundred~~] dollars ***($1,000)*** [~~($200)~~] or imprisonment for a term not exceeding ***one hundred and eighty (180)*** [~~thirty (30)~~] days, or both.

(2) Any person[~~,~~] who continues to violate any provision of KRS 353.500 to 353.720, or any [~~rule,~~] regulation or order promulgated or issued under KRS 353.500 to 353.720 after being notified in writing of the violation by the department shall be subject to a fine of not more than ***one thousand*** [~~two hundred~~] dollars ***($1,000)*** [~~($200)~~] or imprisonment for a term not exceeding ***one hundred and eighty (180)*** [~~thirty (30)~~] days, or both.

(3) Any person[~~,~~] who does any of the following for the purpose of evading or violating KRS 353.500 to 353.720, or any [~~rule,~~] regulation[~~,~~] or order promulgated or issued under KRS 353.500 to 353.720[~~,~~] shall be subject to a fine of not more than ***one thousand*** [~~two hundred~~] dollars ***($1,000)*** [~~($200)~~] or imprisonment for a term not exceeding ***one hundred and eighty (180)*** [~~thirty (30)~~] days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account[~~,~~] or memorandum, required by KRS 353.500 to 353.720, or by any [~~rule,~~] regulation or order;

(b) Omits or causes to be omitted from a report, record, account or memorandum full, true, and correct entries and information as required by KRS 353.500 to 353.720, or by any [~~rule,~~] regulation [~~,~~] or order;

(c) Removes from this Commonwealth or destroys, mutilates, alters or falsifies a report, record, account or memorandum [~~as~~] required by KRS 353.500 to 353.720, or by any [~~rule,~~] regulation[~~,~~] or order.

(4) Any person who knowingly aids or abets any other person in the violation of any provision of KRS 353.500 to 353.720, or any [~~rule,~~] regulation or order promulgated or issued under KRS 353.500 to 353.720 shall be subject to the same penalty as that prescribed in this section for the violation by ***the*** [~~such~~] other person.

(5) Any person who violates the provisions of KRS 353.655 shall be notified by the department that he has twenty (20) days in which to remedy the violation. If after the twenty (20) day time period has elapsed ***he*** [~~that person~~] has failed or refused to comply with the provisions of KRS 353.655, ***he*** [~~such person~~] shall be subject to a fine of twenty dollars ($20) a day until ***the*** [~~such~~] oil or gas well is brought into compliance.

The Committee on State Government reported **HB 259** with Committee Amendments attached thereto, **HB 354, HR 20** with Committee Amendment attached thereto, **HCR 24** with Committee Amendment attached thereto, and **HCR 75** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 259, AN ACT relating to travel expenses of state officers and employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

(1) All state officers and employees, except the governor, lieutenant governor, any elected constitutional officer, cabinet secretaries, the governor's staff, state employees traveling with, or upon the specific written authorization of the governor, or lieutenant governor, those state officers and employees traveling outside the United States, and non-paid members of statutory boards and commissions, shall be reimbursed for expenses incurred while traveling pursuant to the provisions of KRS 44.060, 45.101, and this section.

(2) Those state officers and employees specifically exempted by subsection (1) of this section shall be reimbursed for any and all necessary and actual travel expenses while traveling on official state business.

SECTION 2. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

Any state officer or employee of the Commonwealth of Kentucky, except those exempted in Section 1 of this Act, traveling on official business, shall use the most economical transportation available, and the most direct and commonly traveled routes. Expenses incurred by use of other transportation, or routes, shall be assumed by the state officer or employee. Round-trip, excursion, or other reduced-rate rail or airplane fares shall be obtained, if practicable. State-owned vehicles and credit cards shall be used when available and practicable. No mileage payment shall be claimed when state-owned credit cards are used. Mileage claims for privately owned vehicles may be disallowed if a state-owned vehicle was available. Privately-owned aircraft may be used whenever practicable and in the best interest of the Commonwealth. The cost of car rentals, or other special conveyances, may be reimburseable, provided such rental can be justified.

SECTION 3. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

(1) Any state officer or employee of the Commonwealth of Kentucky, except those exempted by Section 1 of this Act, shall use the most economical and reasonable lodging available. Facilities providing special government, group, or commercial rates shall be used whenever practicable and in the best interest of the Commonwealth.

(2) Maximum reimbursement rates for lodging within the United States shall not exceed forty-five dollars ($45) per day, plus taxes, except at Kentucky state parks and in "high rate" areas designated by the Finance and Administration Cabinet. The maximum for "high rate" areas so designated shall not exceed seventy-two dollars ($72) per day; the maximum rate for lodging at a Kentucky state park shall be the park's standard rate. The actual cost for lodging may be granted when specifically authorized by the cabinet secretary, or his designee.

(3) Claimants using camping vehicles for lodging shall be reimbursed five dollars ($5) per night, plus parking or camping charges, provided a receipt for parking and camping charges is submitted

SECTION 4. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

(1) Any state officer or employee of the Commonwealth of Kentucky, except those exempted by Section 1 of this Act, shall be reimbursed for subsistence while traveling on official business of the Commonwealth at the following rates:

(a) Within the Commonwealth of Kentucky and the United States, except "high rate" areas designated pursuant to the provisions of Section 3 of this Act, subsistence shall not be less than:

1. Five dollars ($5) for breakfast;

2. Six dollars ($6) for lunch; and

3. Ten dollars ($10) for dinner.

(b) Within "high rate" areas designated pursuant to the provisions of Section 3 of this Act, subsistence shall not be less than:

1. Six dollars ($6) for breakfast;

2. Seven dollars ($7) for lunch; and

3. Thirteen dollars ($13) for dinner.

(c) Outside the United States, reimbursement shall be for the actual costs of the meals.

(d) Any state officer or employee authorized to attend a function of an organization not under the state officer's or employee's control, shall be reimbursed for the actual cost of the meal.

(2) To be eligible for reimbursement for subsistence at the rates prescribed by subsection (1) of this section:

(a) Breakfast, authorized travel shall include 6:30 a.m. to 9 a.m.;

(b) Lunch, authorized travel shall include 11 a.m. to 2 p.m.; and

(c) Dinner, authorized travel shall include 5 p.m. to 8 p.m.

SECTION 5. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

Other incidental expenses incurred by any officer or employee of the Commonwealth of Kentucky, except those exempted in Section 1 of this Act, while on the official business of the Commonwealth, for which such officers and employees shall be reimbursed, shall include, but not be limited to:

(1) Baggage charges;

(2) Registration fees;

(3) Telephone expenses; and

(4) Telegraph, or other mailing costs.

Section 6. KRS 44.060 is amended to read as follows:

(1) When any state officer *or employee not exempted in Section 1 of this Act*[~~, member of a state board or commission, or any subordinate officer, agent or employee thereof~~] is authorized by law to and does incur, in the discharge of his official duties, any expense incident to traveling in his own motor vehicle, the amount allowed for such expense shall be *reimbursed pursuant to the provisions of subsection (2) of this section.* [~~fixed by the secretary of the Finance and Administration Cabinet~~] *Such* [~~which~~] sum shall include depreciation and investment charges incident to the operation of the motor vehicle.

(2) Such officers and employees shall receive a mileage allowance equal to that maximum mileage allowance permitted by the federal government, to be increased as federal mileage allowance is increased. They shall also be reimbursed, in full, for any parking, bridge, and toll charges incurred while traveling on the Commonwealth's business, provided a receipt for such charges is submitted.

Section 7. KRS 45.101 is amended to read as follows:

(1) Except as otherwise provided by law, each state officer or employee who is authorized by law to receive, from corporations, or from the state treasury or from any fund appropriated out of the state treasury, his traveling or other expenses incident to the discharge of his official duties, shall submit to the Finance and Administrative Cabinet an itemized statement of such expenses, accompanied by a receipt for each item of expense in excess of ***five dollars ($5.00)*** [~~two dollars ($2.00)~~], before the cabinet shall audit or pay such expenses. The Finance and Administrative Cabinet may rely on a preaudit performed by the budget unit as a basis for issuing a warrant.

(2) The Finance and Administrative Cabinet may issue ***administrative*** [~~rules and~~] regulations to permit budget units to contract with airlines, railroads, hotels, or other companies for services to a group of their employees while on official travel status. Such expenses are to be submitted to the Finance and Administrative Cabinet on forms prescribed by the Finance and Administrative Cabinet before the cabinet shall audit or pay such expenses.

(3) The Finance and Administrative Cabinet may issue ***administrative*** [~~rules and~~] regulations to permit state officers or employees to assign their claim for reimbursement of travel expenses to airline, railroad, hotel, or other companies in payment of services rendered as provided for in subsection (2) of this section and as shown on the itemized statement and receipts as provided for in subsection (1) of this section, which statements and receipts shall indicate that such company has extended credit to said officer or employee in the name of the state and incident to the discharge of his official duties.

(4) Each state officer or employee, who by reason of the duties assigned to his office, is required to be at the state capital for the majority of the time, or who has an office located at the state capital, shall not be permitted to charge for expenses except from the state capital to the place where the business he is transacting is to be transacted, and from that place back to the state capital, and each officer or employee who is assigned to duty at some place other than the state capital shall only be permitted to charge to the state such expenses as are incurred in going from that place to the place where the business is transacted, and returning. Expenses in going from the state capital or the place where the officer or employee is assigned to duty to the officer's or employee's real place of residence, or in return therefrom, shall not be allowed unless it is shown that it was necessary for him to make the trip in the discharge of business for the state.

(5) The Finance and Administrative Cabinet may issue ***administrative*** [~~rules and~~] regulations to permit the payment of travel and other expenses incidental to the official activities of formally organized groups sponsored by or otherwise representing state agencies. The payment may be made direct to service establishments in the manner set forth in subsection (3) of this section, by an inter-account bill between budget units, or by reimbursement to the official or other employee who has been designated as the officer-in-charge of the organized group. If it is necessary that one (1) or more state employees or officials travel with the group, their expenses may be included in the total expenses for the group.

(6) The Finance and Administrative Cabinet may issue ***administrative*** [~~rules and~~] regulations allowing heads of budget units to establish imprest cash funds for reimbursement of travel expenses.

(7) ***Administrative regulations promulgated pursuant to the provisions of this section shall have the force and effect of law upon compliance with the provisions of KRS Chapter 13A*** [~~Except as provided in KRS Chapter 6, but the provisions of any other laws to the contrary notwithstanding, and in lieu of the reimbursement of travel and other incidental expenses authorized by subsection (1) of this section, the Finance and Administrative Cabinet may issue rules and regulations to provide for the payment of a fixed expense allowance per day to be established by the secretary of said cabinet, plus necessary travel expenses, to each state officer or employee who is authorized by law to be reimbursed for expenses incurred in the discharge of his official duties. This payment shall be made from an appropriation for this purpose to a budget unit of a branch of government~~].

The Committee Amendment No. 1 to **HB 259** is as follows:

Amend printed copy of **HB 259** on page 1, line 5, by inserting after the word "***staff***" the words "***employees of the Judicial and Legislative Departments,***"; and

On page 1, by deleting lines 13 through 16 and by inserting in lieu thereof the following:

"***(2) Except as provided in Subsections (3) and (4) of this section, state officers and employees specifically exempted by Subsection (1) of this section shall be reimbursed for any and all necessary and actual travel expenses while traveling on official state business.***

(3) The Legislative Research Commission may, by administrative regulation, provide for payment of travel expenses at a rate or in excess of that provided for Executive Department employees not exempted in

Subsection (1) of this section, but not greater than the rate provided in Subsection (2) of this section for employees of the Legislative Department. Legislators shall be reimbursed for these expenses as provided in KRS Chapters 6 and 7.

(4) The Supreme Court of Kentucky may, by court rule, provide for payment of travel expenses at a rate or in excess of that provided for Executive Department employees not exempted in Subsection (1) of this section, but not greater than the rate provided for in Subsection (2) for officers and employees of the Judicial Department. The Supreme Court may delegate its authority under this subsection to the Administrative Office of the Courts in which case the rates shall be set by administrative regulation."

On page 2, line 11, by substituting the word "***were***" for the word "***was***"; and

On page 8, line 18, after "***(7)***" by deleting the word "***Administrative***" and inserting in lieu thereof the words "***With respect to the Executive Department, administrative***"; and

On page 9, line 7, after the period by inserting the words "***Nothing in this subsection shall be construed to preclude the optional use of administrative regulations promulgated under this section on behalf of the Legislative and Judicial Departments.***"

The Committee Amendment No. 2 to **HB 259** is as follows:

Amend printed copy of **HB 259** on page 3, line 23, by changing "***less***" to "***more***"; and

On page 4, line 3, by changing "***less***" to "***more***".

HB 354, AN ACT relating to state symbols.

WHEREAS, the red-brown or orange Viceroy butterfly, found throughout the Commonwealth, is widely admired by Kentuckians; and

WHEREAS, the Viceroy butterfly in its caterpillar stage does not harm the foliage of the poplars and willows upon which it feeds and is therefore no threat to human interests; and

WHEREAS, the Viceroy butterfly thus lives in appealing harmony with its required food plants and with humans; and

WHEREAS, the Viceroy is known for its imitation of the Monarch butterfly, which is distasteful to predators; and

WHEREAS, the delicate and evanescent beauty of the Viceroy butterfly holds a special charm for gardeners, hikers, and other nature lovers; and

WHEREAS, it is therefore fitting that a state noted for its natural beauty and its great outdoors should have a state butterfly;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The viceroy butterfly is named and designated as the state butterfly.

HR 20, A RESOLUTION amending the permanent rules of the House of Representatives.

WHEREAS, Kentucky faces a prison crisis of serious proportions which has worsened in the 14 months since the Supreme Court issued its opinion in ***Campbell County, et al. v. Commonwealth of Kentucky***, September 8, 1988; and

WHEREAS, on September 30, 1988, there were 912 state prisoners lodged in county jails under the "controlled intake" program and on November 3, 1989, there were 1,253; and

WHEREAS, as a result of the ***Campbell County*** decision, the state faces contempt-of-court fines which increase on a daily basis and now total approximately $4.3 million; and

WHEREAS, the most recent Corrections Cabinet prison population projections indicate net increases totalling 2,600 prisoners by the end of fiscal year 1993, and construction of new and renovated facilities now underway or planned is inadequate to meet this need for prison space; and

WHEREAS, a conservative estimate indicates that the cost of housing each prisoner per year is $13,500 and the cost of building each additional new bed is $25,000, which necessitates the judicious and efficient planning of prison construction, alternative sentencing and criminal justice law and policy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW RULE OF THE PERMANENT RULES OF THE HOUSE OF REPRESENTATIVES IS CREATED TO READ AND BE NUMBERED AS FOLLOWS:

Rule 52B. Corrections Impact Statement. Any bill which relates to any aspect of state or local corrections or any service provided thereby, including any bill which creates or modifies any criminal penalty, shall be analyzed by the staff of the Legislative Research Commission for its fiscal and corrections population impact upon state and local governments and shall have a fiscal and population impact statement attached prior to final consideration. No measure which relates to any aspect of state or local corrections shall be placed in the Orders of the Day until the corrections impact statement is attached. Any member proposing an amendment from the floor which relates to state or local corrections shall cause a corrections impact statement to be prepared and attached to the proposed amendment. Until the time the corrections impact statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. The requirement for the corrections impact statement may be waived by a vote of two-thirds (2/3) of all members of the House.

The Committee Amendment No. 1 to **HR 20** is as follows:

Amend printed copy of **HR 20** on page 2, line 7, delete after "***any***" the words "***civil or***".

HCR 24, A CONCURRENT RESOLUTION establishing a Task Force on Boarding Homes.

WHEREAS, boarding homes are integral to the housing of self-sufficient persons who have little or no family; and

WHEREAS, many people who are not self-sufficient are being placed in boarding homes and are not receiving the attention they require; and

WHEREAS, in recent years there have been documented cases of mental and physical abuse and financial exploitation of boarding home residents; and

WHEREAS, services to mentally retarded individuals do not provide an adequate transition from institutional care to community living;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That a Task Force on Boarding Homes be established to study:

(1) The role of boarding homes within the Commonwealth's system of care to mentally retarded people;

(2) The number and severity of physical and mental abuse cases suffered, or thought to be suffered, in boarding homes;

(3) The extent to which financial exploitation of boarding home residents occurs; and

(4) The advantages and disadvantages of licensing and regulating boarding homes.

Section 2. The Task Force on Boarding Homes shall be appointed by the Legislative Research Commission. The Legislative Research Commission shall appoint the task force chair from the legislative membership. The task force shall be comprised of:

(1) Two (2) Representatives who are members of the Health and Welfare Committee;

(2) Two (2) Senators who are members of the Health and Welfare Committee;

(3) Two (2) representatives of the Cabinet for Human Resources, one (1) of which shall come from the Department for Social Services Aging Division, and one (1) which shall come from the Department for Mental Health and Mental Retardation Services; and

(4) Two (2) persons who own or operate boarding homes, provided that these individuals do not own boarding home property jointly or in any way be partners in the ownership or operation of boarding homes.

Section 3. Task force members not otherwise compensated or reimbursed for their time and expenses shall be reimbursed for their necessary and reasonable expenses in accordance with state travel policies and procedures.

Section 4. The Task Force on Boarding Homes shall submit its report to the Interim Joint Committee on Health and Welfare for review no later than August 1, 1991 prior to presenting it to the Legislative Research Commission no later than September 15, 1991.

Section 5. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 to **HCR 24** is as follows:

Amend printed copy of **HCR 24** on page 1, line 4, delete "to mentally retarded people" and insert in lieu thereof "for persons with mental retardation",

And on page 2, line 4, delete "licensing" and insert in lieu thereof "inspecting."

And on page 2, line 23, delete the period and insert in lieu thereof "; and"

And on page 2, between lines 23 and 24, insert "(5) Two (2) persons who are advocates of the aged, persons with mental retardation, or boarding home clients."

HCR 75, A CONCURRENT RESOLUTION establishing a commission to study firefighting services in Kentucky.

WHEREAS, fire protection is an essential service needed by all Kentuckians; and

WHEREAS, there are currently over five hundred fire departments of various sorts in Kentucky, including municipal and county departments, taxing and non taxing special districts, non profit corporations, subscription departments and loosely organized volunteer associations; and

WHEREAS, the laws pertaining to fire departments are difficult to assimilate because they are scattered throughout the statutes; and

WHEREAS, fire districts in urbanizing areas are growing to sizes not contemplated when their enabling statutes were written, creating problems of administration, management and accountability; and

WHEREAS, fire protection is very difficult to provide in rural areas, especially those which are losing population; and

WHEREAS, the responsibilities of firefighters in maintaining civil order during disasters and emergencies are poorly defined; and

WHEREAS, Kentuckians would benefit if the responsibilities of fire departments were clearly delineated, the administrative and accounting practices were simple, clearly understood, and uniformly implemented, and problems of resources and manpower carefully analyzed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That a Kentucky Fire Protection Study Commission be created consisting of the State Fire Marshal and fifteen (15) members appointed by the Legislative Research Commission, including two (2) fire chiefs of paid fire departments, two (2) representatives of organized labor, two (2) representatives of the Kentucky Firefighters Association, one (1) representative of fire districts created pursuant to KRS Chapter 75, one (1) representative of the insurance industry with experience in providing fire insurance, two (2) Senators and two (2) members of the House of Representatives, one (1) representative of fire departments which are non profit corporations, one (1) representative of the Kentucky League of Cities and one (1) representative of the Kentucky Association of Counties.

Section 2. The Commission shall study the provision of firefighting services in Kentucky, to include questions of jurisdiction, management, administration, accountability, funding and state aid, effectiveness, relation of protection to insurance rates, interlocal cooperation, and the organization, clarity and completeness of statutory and regulatory guidelines.

Section 3. The Commission shall hold its first meeting no later than September 1, 1990. It shall select a chairman and other officers it deems necessary. Members shall receive no compensation, but members not otherwise reimbursed shall be reimbursed by the Legislative Research Commission for their necessary and reasonable expenses.

Section 4. The Commission shall report its findings, recommendations and any suggested legislation to the Legislative Research Commission no later than October 1, 1991.

Section 5. Staff services to be utilized in completing this study are estimated to cost $18,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 to **HCR 75** is as follows:

Amend printed copy of **HCR 75** on page 2, line 3, by changing "fifteen (15)" to "sixteen (16)"; and

On page 2, line 14, by changing "and" to ","; and

On page 2, line 15, by inserting after "Counties" the words "and the chairman of the Commission on Fire Protection Personnel Standards and Education".

The Committee on Health and Welfare reported **HB 86** with the expression of opinion that the same should not pass.

Calendar

HB 39, **HB 47**, **HB 83**, **HB 196**, **HB 211**, **HB 215**, **HB 229** and **HB 270** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Stumbo moved that the rules be suspended to fill a vacancy of a Constitutional officer. Agreed.

Representative Stumbo moved the nomination of the following Constitutional officer:

Page, Monique Beckham

Agreed.

Representative Stumbo moved that nominations cease and that the Constitutional officer be elected by acclamation. Agreed.

The oath of office was administered by the Chief Clerk of the House, Evelyn Marston.

HB 329 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 329** be passed.

On the roll call the vote was: Yeas 89, Nays 6. (See February 6, 1990 roll call on **HB 329** - Appendix.)

HB 329 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 329** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 350** be passed.

On the roll call the vote was: Yeas 93, Nays 4. (See February 6, 1990 roll call on **HB 350** - Appendix.)

HB 350 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 350** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 321, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Amendment No. 1 to **HB 321**. Agreed.

Representative Richards moved that **HB 321**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 6, 1990 roll call on **HB 321** - Appendix.)

HB 321, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 321**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 237, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved the adoption of Committee Amendment No. 1 to **HB 237**. Agreed.

Representative T. Jones moved that **HB 237**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 6, 1990 roll call on **HB 237** - Appendix.)

HB 237, as amended, was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 237**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 221, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Substitute to **HB 221**. Agreed.

Representative Blevins moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 221**. Agreed.

Representative Blevins moved that **HB 221**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 6, 1990 roll call on **HB 221** - Appendix.)

HB 221, by way of Committee Substitute as amended, was passed.

Representative Blevins moved the adoption of the Committee Title Amendment to **HB 221**. Agreed; and the title was agreed to.

Representative Blevins moved that the vote by which **HB 221**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 62, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Substitute to **HB 62**. Agreed.

Representative Scorsone moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 62**. Agreed.

Representative Scorsone moved that **HB 62**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 6, 1990 roll call on **HB 62** - Appendix.)

HB 62, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 62**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Hancock moved that the rules be suspended to introduce a Resolution. Agreed.

HR 106, by Representative Hancock: A RESOLUTION adjourning the House of Representatives in memory and honor of Andrea Kay Huggins.

Representative Hancock moved the adoption of the following **HR 106**:

HR 106, A RESOLUTION adjourning the House of Representatives in memory and honor of Andrea Kay Huggins.

With deepest respect and heartfelt sorrow we pay homage and tribute to Andrea Kay Huggins.

WHEREAS, Andrea Kay Huggins of Franklin County, Kentucky, was born August 16, 1971, in Casper, Wyoming; and

WHEREAS, Andrea Kay Huggins, at the young age of eighteen years, on Tuesday, February 6, 1990, departed this life for her entry into the eternal joys of heaven; and

WHEREAS, Andrea Kay Huggins was a 1989 graduate of Franklin County High School, a member of the Franklin County High School Band, and a dedicated majorette; and

WHEREAS, Andrea Kay Huggins attended the University of Kentucky, but had to withdraw to continue her battle against cancer; and

WHEREAS, Andrea Kay Huggins was a member of Capital City Christian Church; and

WHEREAS, Andrea Kay Huggins was the devoted daughter of Sheila and James E. Huggins, the loving sister of James Richard Huggins, and the adored granddaughter of maternal grandparents, Mr. and Mrs. Clyde Holbrook, of Irvine, Kentucky, and paternal grandparents, Mr. and Mrs. Sim Huggins, of Spring City, Tennessee; and

WHEREAS, visitation for Andrea Kay Huggins will be on Wednesday, February 7, 1990, from 6:00 p.m. to 9:00 p.m. at the Harrod Brothers Funeral Home in Frankfort, and a private family service will be held on Thursday, February 8, 1990, with burial in Bluegrass Memorial Gardens in Lexington, Kentucky; and

WHEREAS, in lieu of flowers, the family of Andrea Kay Huggins asks that contributions be made to the American Cancer Society, 500 New Circle Road, Lexington, Kentucky 40511, or to Hospice of the Bluegrass, 124 West Todd Street, Frankfort, Kentucky 40601; and

WHEREAS, all who knew and loved Andrea Kay Huggins will grieve over their loss and join her family and friends who mourn her passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body do hereby express their deep sense of bereavement and loss at the passing of Andrea Kay Huggins and commend her loved ones to the solace of the Almighty during these dark and painful hours.

Section 2. That when the House of Representatives adjourns this day, Tuesday, February 6, 1990, it does so in memory of Andrea Kay Huggins.

Section 3. That the Clerk of the House of Representatives is directed to transmit four copies of this resolution to Mr. and Mrs. James E. Huggins, 23 Whitebridge Lane, Frankfort, Kentucky 40601.

HR 106 was adopted by voice vote.

Representative Hancock moved that the rules be suspended to allow a call of the roll to show co-sponsors of **HR 106**.

On the roll call the vote was yeas 96—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Reinhardt, Richards, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 0.

Representative Barrows moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following Legislative Citation No. 29. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Robert Huffman for your distinguished services to Woodford County for a period of twenty-four years as the County Agriculture Agent. Mr. Huffman began his career with the University of Kentucky's County Extension Offices in 1955 in Fayette County. Your leadership as the President of the Association of Extension Agriculture Agents is recognized with sincere appreciation.

This prestigious body joins Representative Joe Barrows in saluting you for your contribution to Woodford County. We extend to you and your wife, Catherine, our very best wishes for a retirement filled with happiness, health and many friends.

Representative Mack moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Mack moved the adoption of the following Legislative Citation No. 18. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mr. Harry G. Barfield and his staff of WLEX-TV 18 Lexington, Kentucky for their public service announcement on behalf of the "Safe & Sober" project during the Christmas and New Year holidays.

More than 500 drinking drivers took advantage of the free "Safe & Sober" ride home offered by WLEX-TV. The rides were provided to homes in Fayette County and five other Central Kentucky counties. According to the Urban County Government Division of Police and the Kentucky State Police, there were no alcohol related traffic fatalities in the Lexington Metropolitan area between December 15 and December 31, 1989, when the free "Safe & Sober" transportation was provided.

This prestigious body joins Representative Louie Mack in saluting WLEX-TV 18 for their community concern.

Representative Moberly moved the rules be suspended to withdraw the following Bill: **HB 292**. Agreed.

Representative Friebert moved the adoption of the following **HR 103**:

HR 103, A RESOLUTION recognizing the importance of Kentucky Educational Television and its service to the General Assembly.

WHEREAS, the Kentucky Educational Television network provides special and unique information to all Kentuckians; and

WHEREAS, this service has been extended to informing our children as to the role of the General Assembly in governing our great Commonwealth; and

WHEREAS, in years past junior and senior high school civics and government classes have required their students to watch and study these broadcasts; and

WHEREAS, the Kentucky Educational Television network is now carrying this programming at 10:00 p.m., well after most children and many adults are in bed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Kentucky Educational Television be praised for their efforts in documenting the proceedings of the legislative branch of government.

Section 2. That the House of Representatives recognizes the importance of KET broadcasting to the emergence of the General Assembly as a co-equal branch of Government.

Section 3. That KET be called upon to reschedule legislative programming to allow greater access by all Kentuckians, especially school children.

Section 4. That a copy of this resolution be dispatched to KET headquarters in Lexington, Kentucky.

HR 103 was adopted by voice vote.

Representative Freibert moved that the rules be suspended to allow a call of the roll to show co-sponsors of **HR 103**.

On the roll call the vote was yeas 82—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Bentley, Blandford, Blevins, Brown, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Geveden, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Reinhardt, Richrds, P. Richardson, Ridley, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 0.

Representative Stumbo moved that **HB 40** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported **HB 47** has been posted for passage in Orders of the Day, February 7, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 7, 1990: **HB 305**, **HB 359**.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 211**.

The Committee on Rules reported **HB 83**, **HB 212**, **HB 215**, **HB 323** and **HB 338** have been posted for passage in Orders of the Day, February 8, 1990.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary: **HB 257**, **HB 260**, **HB 262**, **HB 511**.

Agriculture and Small Business: **HB 132**, **HB 385**.

Banking and Insurance: **HB 376**.

Business Organizations and Professions: **HB 456**, **HB 472**, **HB 473**.

Introductions of Bills and Resolutions

HB 517, by Representatives Mason, Bentley and White: AN ACT relating to coal mining.

HB 518, by Representatives Mason, Bentley and White: AN ACT relating to coal mining.

HB 519, by Representatives Mason, Bentley and White: AN ACT relating to coal mining.

HB 520, by Representative B. Smith: AN ACT relating to real estate appraisers.

HB 521, by Representative Brown: AN ACT relating to revenue and taxation.

HB 522, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 523, by Representative Blevins: AN ACT relating to the extension of services to foster children.

HB 524, by Representative Ackerson: AN ACT relating to public notice by local governments.

HR 104, by Representative Heleringer: A RESOLUTION commending and honoring the 1989 Saint Gabriel's Elementary School Football Team for winning the Toy Bowl two years in a row.

HJR 105, by Representatives Castleman, Curd, Lewis, A. Jones, Geveden and R. Smith: A JOINT RESOLUTION pledging to support the programs and incentives pledged by the state to General Tire, Inc. in return for General Tire's commitment to modernize its tire manufacturing plant in Mayfield, Graves County, Kentucky and to retrain its labor force at this facility.

Report of Committees

The Committee on Agriculture and Small Business reported **HB 335, HCR 31, HCR 48** and **SB 9** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 335, AN ACT relating to commercial weighing and measuring device servicemen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 363.330 is amended to read as follows:

(1) As used in this section unless the context requires otherwise:

(a) "Commercial weighing and measuring device" includes any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basis of weight, or measure, and also includes any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

(b) "Registered serviceman" means any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and ***who*** [~~which voluntarily~~] registers [~~himself as such~~] with the director of weights and measures.

(c) "Registered service agency" means any agency, firm, company, or corporation which, for hire, award, commission, or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and which [~~voluntarily~~] registers [~~itself as such~~] with the director of weights and measures. Under agency registration, identification of individual servicemen shall [~~not~~] be required.

(2) It shall be the policy of the director of weights and measures, hereinafter referred to as "director," to accept [~~voluntary~~] registration of an individual or agency that provides acceptable evidence that he or it is fully qualified to install, service, repair, or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, rules, and regulations; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. An employee of government shall not be eligible for registration. This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency [~~not~~] registered with the director to install, service, repair, or recondition a commercial weighing or measuring device.

(3) The director may enter into an informal reciprocal agreement with any other state [~~or states~~] that has [~~or have~~] similar [~~voluntary~~] registration policies. Under ***a reciprocal*** [~~such~~] agreement, registered servicemen and registered service agencies of the states party to the reciprocal agreement ***shall be*** [~~are~~] granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to ***the*** [~~such~~] agreement.

(4) There shall be charged by the director an annual fee of ***ten dollars ($10)*** [~~$1~~] per registered serviceman and ***twenty-five dollars ($25)*** [~~$5~~] per registered service agency to ***be applied toward the*** [~~cover~~] costs of administering the plan. The fee shall be paid to the director at the time application for registration is made, and annually, during the month of January, thereafter.

(5) An individual or agency ***shall*** [~~may~~] apply for [~~voluntary~~] registration to service weighing devices or measuring devices on an application form supplied by the director. The form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered; has in possession, or available for use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, rules, and regulations. An applicant also shall submit appropriate evidence or references as to qualifications.

(6) Upon receipt and acceptance of a properly executed application form, the director shall issue to the applicant a "certificate of registration," including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the director.

(7) A bearer of a certificate of registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the director; place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected; and place in service, until such time as an official examination can be made, a new or used weighing or measuring device.

(8) The director shall furnish each registered serviceman and registered service agency with a supply of report forms to be known as "Placed in Service Reports." ***This*** [~~Such a~~] form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a registered serviceman or by a serviceman representing a registered agency for each rejected device restored to service and for each newly installed device placed in service. Within twenty-four (24) hours after a device is restored to service, or placed in service, the original of the properly executed "Placed in Service Report," together with any official rejection tag removed from the device, shall be mailed to the director at Frankfort, Kentucky. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered servicemen or agency.

(9) A registered serviceman and a registered service agency shall submit, at least biennially to the director, for his examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceman or agency shall not use in servicing commercial weighing or measuring devices any standards of testing equipment that have not been certified by the director.

(10) The director may, for good cause, after careful investigation and consideration, suspend or revoke a "certificate of registration."

(11) The director shall publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicemen and registered service agencies.

HCR 31, A CONCURRENT RESOLUTION calling for the creation of a special horticultural study subcommittee of the Interim Joint Committee on Agriculture and Natural Resources to study the horticultural industry in Kentucky.

WHEREAS, horticulture is an important industry in Kentucky that can be greatly expanded; and

WHEREAS, the demand for fruits, vegetables, flowers, and woody plant materials has increased dramatically in the last two decades and Kentucky has not capitalized on this expanding market; and

WHEREAS, major opportunities exist for Kentucky producers and processors because of this state's location and resources; and

WHEREAS, great strides could be made in development of the horticultural industry if better information existed on markets, supply, cultural and management techniques, and the need for facilities to process and add value to Kentucky horticultural products; and

WHEREAS, information on the horticultural industry in Kentucky acquired by the subcommittee may be used to encourage and develop the industry, to encourage diversification, and to train and assist students, farmers, producers, processors, managers and others;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That a special horticultural study subcommittee composed of seven members of the Interim Joint Committee on Agriculture and Natural Resources be created by the Legislative Research Commission.

Section 2. That the special horticultural study subcommittee be directed to conduct a study of the horticultural industry in Kentucky, which study shall address:

(a) The present status of the horticultural industry in Kentucky and its relationship to other states and area markets;

(b) Problems and constraints that face the industry; and

(c) What steps need to be taken to further develop the industry.

Section 3. That this study be completed by the special horticultural study subcommittee with a report submitted to the Legislative Research Commission no later than September 1, 1991.

Section 4. Staff services to be utilized in completing this study are estimated to cost $20,000 and shall be provided from the regular Legislative Research Commission budget, subject to the limitations and other research responsibilities of the commission.

HCR 48, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's economy; and

WHEREAS, loss of tobacco production or the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, such losses would cause failure of many farms and businesses, decreases in land values, the default of loans and the loss of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems which threaten the tobacco industry and the tobacco price support program; and

WHEREAS, the Task Force has been instrumental in helping resolve those problems; and

WHEREAS, the Task Force has provided leadership and unified the tobacco states in efforts to resolve the tobacco program's problems and the state must continue that leadership role; and

WHEREAS, the tobacco program remains in jeopardy because of underproduction, labor shortages, marginal prices, problems with the Federal law affecting tobacco, and other problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized to help resolve the problems facing the tobacco industry and the tobacco program.

Section 2. Staff services to be utilized by the Task Force are estimated to cost $10,000 and are to be provided by the Commission from its regular budget, subject to the limitations and other research responsibilities of the Commission.

SB 9, AN ACT relating to fish farming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 260.036 TO 260.040 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly recognizes the importance of fish farming to the agricultural economy of the state.

(2) "Farm-raised fish" means native or exotic fish species spawned or raised under controlled conditions in private waters for commercial purposes.

(3) The state Department of Agriculture shall promote the development of markets for farm-raised fish. The department shall work cooperatively with Kentucky State University's aquaculture program utilizing its expertise in the area of fish farming. The department also shall work cooperatively with other state agencies in assisting fish farmers to obtain the necessary permits.

(4) This section shall not affect the powers of the Fish and Wildlife Resources Commission or the Department of Fish and Wildlife Resources as contained in KRS Chapter 150.

The Committee on Natural Resources and Environmental Protection reported **HB 33**, **HB 46** with Committee Amendment attached thereto, **HB 67** with Committee Substitute attached thereto, **HB 70** with Committee Substitute attached thereto, **HB 194** with Committee Substitute and Committee Title Amendment attached thereto, and **HCR 33** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 33, AN ACT relating to solid waste collection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) It is the purpose of this Act to further the intention of the General Assembly of the Commonwealth

of Kentucky as expressed in KRS 109.011 that the primary responsibility for adequate solid waste collection, disposal and resource recovery rests with counties, and to assist local governments to carry out those responsibilities.

(2) The authority granted by this Act shall be construed as being in addition to other power already given to counties. The purpose of this grant of authority shall be to increase the range of options from which counties may choose in order to meet local solid waste management needs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) A county or urban-county government may collect solid waste pick-up fees which are delinquent three (3) consecutive months or more by combining the delinquent fees with the property tax bill for the property where the solid waste pick-up is made. The fees shall be limited to a return on capital expenditures and to cover operational costs.

(2) The pick-up fee when combined with the property tax bill shall be clearly set out as the delinquent amount owed for solid waste pick-up services and shall in no way be represented as an assessment based on the value of the property.

(3) Sixty (60) days before a property tax bill which includes a delinquent solid waste pick-up fee is mailed, the county office responsible for solid waste pick-up billing shall give written notice to the owner of the property that the pick-up bill is delinquent and that, if left unpaid, the fee will be combined with the next property tax bill.

(4) A county or urban county government may waive the solid waste pick-up fee for businesses which request a waiver. The request for a waiver shall include a certification that the solid waste generated by the business is disposed of properly and include a description of the disposal method and the property owner's federal employer's identification number.

(5) If the owner of the property is not the occupant of the property where the solid waste is picked up, the county or urban-county government shall waive the delinquent solid waste pick-up fee portion of the property tax bill if the owner of the property requests a waiver. In requesting the waiver, the owner shall certify he is not the occupant of the property and that the occupant will be notified that failure of the occupant to pay the solid waste pick-up fee will be considered a breach of the occupant's lease making the occupant subject to eviction.

SECTION 3. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

A county or urban-county government may exempt from paying a solid waste pick-up fee households which earn less than eight hundred and twelve dollars ($812) per month.

HB 46, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 353.476 TO 353.500 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act:

(a) "Person" means any natural person, corporation, firm, partnership, venture, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or agency thereof.

(b) "Drilling operations" means the drilling, deepening, or conversion of a well for oil or gas production, core hole, or drill hole for a stratigraphic test.

(c) "Entry" means the moving upon the surface of land with equipment to commence drilling operations, but shall not include entry for the survey for or ascertaining or identification of a well location.

(d) "Operator" means the person, whether the owner or not, who applies for or holds a permit for drilling operations or who is named as the principal on a bond for a permit for a well that was issued by the department.

(e) "Surface owner" means the person in whose name the surface of the land on which drilling operations are contemplated, and who is assessed for purposes of taxes imposed according to the records of the property valuation administrator of the county where the land is located as certified by the property valuation administrator.

(f) "Production operation" means the operation of a well for the production of oil or gas, including all acts, structures, equipment, and roadways necessary for the operation.

(g) "New well" means a well that is spudded after the effective date of this Act and does not utilize any part of a well bore or drilling location that existed prior to the effective date of this Act.

(h) "Completion of the well" means completion of those processes necessary before production occurs, including the laying of flow lines and the construction of the tank battery. If the well is not productive, the date of completion of the well shall be the day it is plugged and abandoned.

(2) This Act shall be applicable only for the drilling operations of new wells except as provided in subsection (7) of this Act. This Act shall not apply for reworking operations on a well. This Act shall be applicable only when the surface owner has not consented in writing to the drilling operations and:

(a) There has been a complete severance of the ownership of the oil and gas from the ownership of the surface; or

(b) The surface owner owns an interest in the oil and gas.

(3) (a) Prior to commencement of the drilling of a well, the operator shall give written notice to the surface owner of the operator's intent to commence drilling operations.

(b) The operator shall, for the purpose of giving notice, secure from the property valuation administrator's office within ninety (90) days prior to the giving of the notice, a certification which shall identify the person in whose name the lands on which drilling operations are to be commenced and who is assessed at the time the certification is made. The written certification made by the property valuation administrator of the surface owner shall be conclusive evidence of the surface ownership.

(c) The notice required to be given by the operator to the surface owner shall identify the following:

1. The location of the proposed entry on the surface for drilling operations and the date on or after which drilling operations shall commence.

2. A photocopy of the drilling application to the department for the well to be drilled.

3. The name, address, and telephone number of the operator.

4. An offer to discuss with the surface owner those matters set forth in subsection (4) of this Act prior to commencement of drilling operations.

(d) If the surface owner elects to meet the operator, the surface owner shall request the operator to schedule a meeting at a mutually agreed time and place within the limitations set forth herein. Failure of the surface owner to contact the operator at least five (5) days prior to the proposed commencement of drilling operations shall be conclusively deemed a waiver of the right to meet by the surface owner. The meeting shall be scheduled between the hours of nine o'clock in the morning and the setting of the sun of the same day and shall be at least three (3) days prior to commencement of drilling operations. Unless agreed to otherwise, the place shall be located within the county in which drilling operations are to be commenced where the operator or his agent shall be available to discuss with the surface owner or his agent those matters set forth in subsection (4) of this Act.

(e) The notice shall be given to the surface owner by either:

1. Certified mail addressed to the surface owner at the address shown in the certification obtained from the property valuation administrator, which shall be postmarked at least ten (10) days prior to the commencement of drilling operations; or

2. Personal delivery to the surface owner at least eight (8) days prior to the commencement of drilling operations.

(f) Notice to the surface owner as defined in this Act shall be deemed conclusive notice to the record owners of all interest in the surface.

(4) The operator, or his agent shall, if the surface owner accepts the offer to discuss, be available at the time agreed, date, and place to discuss with the surface owner the following:

(a) Placement of roads to be constructed by the operator;

(b) Points of entry upon the surface for drilling operations;

(c) Construction and placement of pits used for drilling operations;

(d) Restoration of fences to be cut in order to make entry upon the surface for drilling operations;

(e) Use of water on the surface of the lands;

(f) Removal of trees; and

(g) Surface water drainage changes caused by drilling operations.

(5) The surface owner shall be entitled to reasonable compensation from the operator for damages to growing crops, trees, shrubs, fences, roads, structures, improvements, and livestock thereon caused by the drilling of a new well. The surface owner shall be entitled to reasonable compensation from the operator for subsequent damages to growing crops, trees, shrubs, fences, roads, structures, improvements, and livestock caused by subsequent production operations of the operator thereon. The surface owner shall be entitled to reasonable compensation for all negligent acts of the operator that cause measurable damage to the productive capacity of the soil. In addition, the operator shall not utilize any more of the surface estate than is reasonably necessary for the exploration, production and development of the mineral estate.

(6) The compensation required pursuant to subsection (5) of this Act shall be paid in any manner mutually agreed upon by the operator and the surface owner, but the failure to agree upon, or make the compensation required, shall not prevent the operator from commencement of drilling operations. The operator shall tender to the surface owner payment by check or draft in accordance with the provisions of this Act no later than ninety (90) days after completion of the well. The surface owner's remedy shall be an action for compensation in the circuit court in which the lands, or the greater part thereof, are located on which drilling operations were conducted. If the operator fails to tender payment within the ninety (90) day period or if the tender is not reasonable, the surface owner shall be entitled to reasonable compensation as provided in this Act, as well as attorney's fees. If the operator relies on a third party appraiser or fair market value, the amount shall be conclusively deemed to be reasonable, and there shall be no award of attorney's fees.

(7) In conjunction with the plugging and abandonment of any well, the operator shall restore the surface to a condition as near as practicable to the condition of the surface prior to commencement of drilling operations. The surface owner and operator may waive this requirement in writing, subject to the approval of the department that the waiver is in accordance with its administrative regulations.

(8) Where practicable and absent a written agreement to the contrary with the surface owner, all flow lines and other underground structures shall be buried to a depth not less than thirty-six (36) inches from the surface.

(9) Nothing in this Act shall be construed to diminish the rights of the operator or surface owner as they exist by established common law. Any compensation paid pursuant to the provisions of subsections (5) and (6) of this Act, shall be a complete bar to the assertion of any other remedy for such damages.

The Committee Amendment No. 1 to **HB 46** is as follows:

Amend printed copy of **HB 46** on page 7, line 18, by deleting "*thirty-six inches*" and inserting in lieu thereof "*twenty-four (24) inches*"

HB 67, AN ACT relating to an environmental trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is established a special trust fund in the treasury of the Commonwealth to be known as the "environmental trust fund", to be used for the purpose of conducting and funding environmental research, research and development projects that assist in implementing the policies and purpose of this chapter, environmental education programs, and actions to mitigate the degradation of the Commonwealth's natural environment caused by violations of this chapter.

(2) All money collected for the environmental trust fund shall be deposited by the state treasurer into an interest-bearing account and all interest accrued shall be credited to the fund.

(3) Money unexpended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year or biennium for future use.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The environmental trust fund may be used to support scientific, technical, legal research or other environmental research needed to develop and guide environmental protection and natural resource management policies. Research topics may include but shall not be limited to air quality; water quality, including groundwater protection; water resource management; environmental impacts of natural resource

extractions, including surface mining and oil and gas production; waste management, including solid and hazardous waste; environmental impact of noise; soil conservation; and forest resource management. Research activities may include collecting baseline environmental data and studying environmental problems existing in or of concern to the Commonwealth.

(2) The environmental trust fund may be used to finance research and development projects that promote the use of innovative solutions to environmental problems existing in or of concern to the Commonwealth. Research and development projects shall have cosponsors who pay all operating costs and cooperate in the gathering and sharing of research data. Cosponsors may include but shall not be limited to local governments, universities, state agencies and private persons.

(3) The environmental trust fund may be used to collect and disseminate information derived from any activities conducted pursuant to this Act.

(4) The environmental trust fund may be used to support educational and training programs relating to the protection of the environment.

(5) If a violation of KRS Chapters 146, 151, 223 or 224 has resulted in degradation of the Commonwealth's natural environment and the Natural Resources and Environmental Protection Cabinet determines that no other money is available to correct the violation, the environmental trust fund may be used for mitigating the degradation.

(6) The environmental trust fund shall not be used to support or finance the routine day-to-day activities and responsibilities of the Natural Resources and Environmental Protection Cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Environmental Board is established, which shall control and manage the environmental trust fund. The board shall be composed of seven (7) members as follows: the secretary of the Natural Resources and Environmental Protection Cabinet, the chairman of the Environmental Quality Commission, the secretary of the Economic Development Cabinet, the dean of the University of Kentucky College of Engineering, the dean of the University of Louisville Speed Engineering School, and two (2) members-at-large to be appointed by the Governor. The secretary of the Natural Resources and Environmental Protection Cabinet shall serve as the permanent chairman.

(2) The two (2) members-at-large shall be appointed for terms of four (4) years. The remaining members shall be permanent members. Representatives of manufacturers, the mineral extraction industry, or environmental groups shall be considered for representation on the board.

(3) The board shall meet at least once each calendar quarter or more often on the call of the chairman.

(4) No member of the board shall receive any salary, fee, or other remuneration for services as a member of the board but each member shall be reimbursed for travel expenses incurred in the performance of duties as a board member.

(5) The secretary and the staff of the cabinet shall serve as staff for the board.

(6) The cabinet may provide legal representation to the board or the board may enter into personal service contracts pursuant to KRS Chapter 45 to obtain legal counsel.

(7) Five (5) members of the board shall constitute a quorum for conducting business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

(8) The cabinet shall annually prepare a proposed program and a list of projects for the board's consideration.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Environmental Board shall have the following powers and duties:

(1) The board shall authorize and administer all expenditures from the environmental trust fund.

(2) The board may conduct and fund environmental research, research and development projects that assist in implementing the policies and purposes of this chapter, environmental education programs, and actions to mitigate degradation of the Commonwealth's natural environment caused by violations of this chapter.

(3) The board may contract with any state agency, federal agency, local government, university, or private person to further the purposes of this Act.

(4) The board may award grants to further the purposes of this Act.

(5) The board may solicit, receive and consider proposals from any state agency, federal agency, local government, university, or private person which further the purposes of this Act.

(6) The board may solicit and accept money by grant, gift, donation, bequest or other conveyance to be credited to the environmental trust fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Natural Resources and Environmental Protection Cabinet may solicit and accept money by grant, gift, donation, bequest or other conveyance to be credited to the environmental trust fund.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The fund shall be used only for the purposes expressed in this Act.

The Committee Substitute to **HB 67** is as follows:

HB 67, AN ACT relating to an environmental trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is established a special trust fund in the treasury of the Commonwealth to be known as the "environmental trust fund", to be used for the purpose of conducting and funding environmental research, research and development projects, and environmental education programs as approved by the board established in Section 3 of this Act that assist in implementing the policies and purposes of this chapter.

(2) All money collected for the environmental trust fund shall be deposited by the state treasurer into an interest-bearing account and all interest accrued shall be credited to the fund.

(3) Money unexpended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year or biennium for future use.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The environmental trust fund may be used to support scientific, technical, or environmental research needed to develop and guide environmental protection and natural resource management policies. Research topics may include but shall not be limited to air quality; water quality, including groundwater protection; water resource management; environmental impacts of natural resource extractions, including surface mining and oil and gas production; waste management, including solid and hazardous waste; environmental impact of noise; soil conservation; and forest resource management. Research activities may include collecting baseline environmental data and studying environmental problems existing in or of concern to the Commonwealth.

(2) The environmental trust fund may be used to finance research and development projects that promote the use of innovative solutions to environmental problems existing in or of concern to the Commonwealth. Research and development projects shall have cosponsors who will cooperate in the gathering and sharing of research data. Cosponsors may include but shall not be limited to local governments, universities, state agencies, nonprofit organizations, and private persons.

(3) The environmental trust fund may be used to collect and disseminate information derived from any activities conducted pursuant to this Act.

(4) The environmental trust fund may be used to support educational and training programs relating to the protection of the environment.

(5) The board created in Section 3 of this Act shall take into consideration state and federal moneys available for projects prior to expending money in the environmental trust fund.

(6) The environmental trust fund shall not be used to support or finance the routine day-to-day activities and responsibilities of the Natural Resources and Environmental Protection Cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Environmental Board is established, which shall control and manage the environmental trust fund. The board shall be composed of nine (9) members as follows: the secretary of the Natural Resources

and Environmental Protection Cabinet, the chairman of the Environmental Quality Commission, the secretary of the Economic Development Cabinet, and six (6) members-at-large to be appointed by the Governor. The board members shall elect the chairman.

(2) The six (6) members-at-large shall be appointed for terms of four (4) years. The remaining members shall be permanent members. The six (6) members-at-large shall be appointed from the following: two (2) from manufacturers, mineral extraction industry, or agribusiness; two (2) from the state-supported university system; one (1) from public health or environmental citizen groups; and one (1) an educator specializing in environmental education. Vacancies in the members-at-large appointments shall be filled in the same manner as originally appointed, and appointments to fill these vacancies shall be for the remainder of the unexpired term.

(3) The board shall meet at least once each calendar quarter or more often on the call of the chairman.

(4) No member of the board shall receive any salary, fee, or other remuneration for services as a member of the board but each member shall be reimbursed for travel expenses incurred in the performance of duties as a board member.

(5) The secretary and the staff of the cabinet shall serve as staff for the board.

(6) The cabinet may provide legal representation to the board or the board may enter into personal service contracts pursuant to KRS Chapter 45 to obtain legal counsel.

(7) Six (6) members of the board shall constitute a quorum for conducting business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

(8) The cabinet shall annually prepare a proposed program and a list of projects for public comment and review for the board's consideration.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Environmental Board shall have the following powers and duties:

(1) The board shall authorize and administer all expenditures from the environmental trust fund.

(2) The board may conduct and fund environmental research, research and development projects, and environmental education programs that assist in implementing the policies and purposes of this chapter.

(3) The board may contract with any state agency, federal agency, local government, university, nonprofit organization or private person to further the purposes of this Act.

(4) The board may award grants to further the purposes of this Act.

(5) The board may solicit, receive and consider proposals from any state agency, federal agency, local government, university, nonprofit organization or private person which further the purposes of this Act.

(6) The board may solicit and accept money by grant, gift, donation, bequest or other conveyance to be credited to the environmental trust fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The fund shall be used only for the purposes expressed in this Act.

HB 70, AN ACT relating to pesticides.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) At least forty-eight (48) hours prior to any commercial lawn application of pesticides, herbicides or fungicides, the applicator shall provide its customer with written information on:

(a) The date and time of application;

(b) A list of the substances to be applied, including brand names and generic names of active ingredients;

(c) Any warnings and hazards that appear on the label of the pesticides, herbicides or fungicides to be applied that are pertinent to the protection of humans, animals or the environment;

(d) Any other pertinent information on the pesticide, herbicide or fungicide, including warning signs of exposure, health effects, and treatment recommendations; and

(e) The company's name, address, telephone number, business registration number, and applicator certification identification.

The Committee Substitute to **HB 70** is as follows:

HB 70, AN ACT relating to pesticides.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The following definitions apply to this section:

(a) "Application" means the spreading of lawn chemicals in liquid or dry form on a lawn;

(b) "Applicator for hire" means any person who makes an application of lawn chemicals to a lawn for compensation, including applications made by an employee to lawns owned, occupied or managed by his employer;

(c) "Customer" means a person who makes a contract, either written or verbal, with an applicator for hire to apply a pesticide to a lawn;

(d) "Fertilizer" means any substance containing nitrogen, phosphorus, potassium or other recognized plant nutrient or compound which is used for its plant nutrient content;

(e) "Lawn" means land area covered with turf kept closely mown, except land areas used for agricultural production, golf courses, commercial production of turf or land situated within three (3) feet of the foundation of a structure when a pesticide is applied to this area as a preventive or control measure for structural pests;

(f) "Lawn chemicals" means fertilizers, pesticides or defoliants applied or intended for application to lawns;

(g) "Structural pest" means a pest which commonly invades or attacks dwellings or structures; and

(h) "Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

(2) The following notification requirements shall be met:

(a) An applicator for hire shall provide a customer at the time of entering into a contract, either written or verbal, or a reasonable time thereafter, with written information concerning lawn chemcials, application procedures and other general guidelines about the safe use of lawn chemicals.

(b) Immediately following application of lawn chemicals to a lawn, the applicator shall place a lawn marker at a prominent location in the lawn.

(c) The lawn marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length.

(d) Lettering on the lawn marker shall be in a contrasting color and shall read on one side "LAWN CARE APPLICATION - PLEASE STAY OFF GRASS UNTIL DRY" in letters easily readable and not less than three-eighths (3/8) inch. The lawn marker may also display a symbol depicting the required message and the name, logo and service mark of the applicator.

(e) The lawn marker shall be removed and discarded by the property owner or resident, or other person authorized by the property owner or resident, the day following application.

(f) For applications to residential properties of three (3) families or less, the applicator shall place one (1) lawn marker per property.

(g) For applications to properties other than residential property of three (3) families or less, the applicator shall place lawn markers at primary points of entry to the property to provide notice that lawn chemicals have been applied to the lawn.

(3) At the time of application of lawn chemicals to a lawn, an applicator for hire shall provide the following information to the customer, either homeowner or landlord, for each lawn chemical used:

(a) The brand name or common name of the pesticide applied;

(b) The pesticide type;

(c) The fertilize rate or analysis;

(d) The reason for use;

(e) The concentration of end use product applied to the lawn and the rate of application;

(f) Any special instruction appearing on the label of the lawn chemical product applicable to the customer's use of the lawn following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration; and

(g) The name and the state applicator license or certificate number of the individual actually making the application.

(4) Any customer of an applicator for hire, or a neighbor whose residence is adjoining to a customer of an applicator for hire, may receive prior notification twenty-four (24) to forty-eight (48) hours in advance of an application by contacting the applicator for hire and providing his name, address, and telephone number. In this event, the applicator for hire shall provide notification in writing, in person or by telephone, of the date and approximate time of application. If an applicator for hire is unable to provide prior notification to a customer or neighbor because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence.

(5) Violations of this section shall be punishable by a civil fine of not more than one hundred dollars ($100) for each violation.

Section 2. This Act shall become effective January 1, 1991.

HB 194, AN ACT relating to underground storage tanks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) Significant quantities of petroleum and petroleum products are being stored in petroleum storage tanks in the state to meet the needs of its citizens and to foster economic growth and development and the overall quality of life in the state;

(2) Spills, leaks, discharges, and other releases into the environment from petroleum storage tanks however, have occurred, are occurring, or will occur, and such releases may pose a threat to public health and safety and the environment;

(3) Adequate financial resources must be readily available to provide a means for investigation and cleanup of contamination without delay;

(4) In recent years, petroleum storage tank owners or operators have been unable to obtain affordable pollution liability insurance coverage to pay for corrective action measures;

(5) It is in the best interests of the state to protect public health and safety and the environment by creating a fund for corrective action measures for releases into the environment from petroleum storage tanks;

(6) Commercial insurers may increase the availability and affordability of pollution liability insurance coverage for petroleum storage tanks if a comprehensive and efficient financial responsibility program for tanks is established;

(7) An efficient program of financial responsibility should include corrective action requirements that encourage petroleum storage tank owners or operators to take corrective action measures in the first instance;

(8) An efficient program of financial responsibility for petroleum storage tanks should minimize disputes over the causation of and responsibility for releases into the environment from petroleum storage tanks;

(9) It is necessary and essential that the state use all practical means to control or eliminate pollution hazards posed by leaking petroleum storage tanks; and

(10) It is the intent of the General Assembly that a state fund be created to assist petroleum storage tank owners or operators in complying with the federal financial responsibility requirements promulgated under federal regulations and to assist petroleum storage tank owners or operators in cleaning up contamination caused by a release.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 through 10 of this Act, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Commission" means the Petroleum Storage Tank Environmental Assurance Fund Commission;

(5) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to Section 7 of this Act, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(6) "Dealer" means a person licensed pursuant to KRS Chapter 138;

(7) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(8) "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(9) "Free product" means petroleum or petroleum products in the nonaqueous phase, including liquid not dissolved in water that is beneath the surface of the ground;

(10) "Fund" means the Petroleum Storage Tank Environmental Assurance Fund established pursuant to Section 8 of this Act;

(11) "Gasoline" means all products commonly or commercially known or sold as gasoline, including gasoline blends consisting of methanol, ethanol, or any other product, which are suitable for use as a motor fuel;

(12) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which result in a release into the environment from a petroleum storage tank;

(13) "Person" means an individual, trust, firm, joint stock company, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, or a commercial entity. The term also includes the United States Government;

(14) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(15) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.810, which contains petroleum or petroleum products;

(16) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(17) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(18) "Received" means the same as defined in KRS 138.210(5);

(19) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law; and

(20) "Special fuels" means all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, kerosene not to be used to propel licensed motor vehicles, or liquefied petroleum gas as defined in KRS 234.100.

Section 3. KRS 224.814 is amended to read as follows:

(1) Owners of any underground storage tank, currently existing, or taken out of operation after January 1, 1974, shall notify the cabinet of the existence of such tanks and a description of the tank and its use in accordance with regulations promulgated by the cabinet.

(2) The cabinet shall regulate underground storage tanks by requiring minimum construction and performance standards, leak detection, record keeping, reporting releases, corrective actions, closure, financial responsibility, and any other requirement deemed necessary by the cabinet to protect the public health and environment. In promulgating regulations to carry out this section the cabinet may distinguish between types, classes, and ages of underground storage tanks.

(3) It is the intent of the General Assembly that the cabinet shall establish a program to regulate underground storage tanks which implements federal regulatory requirements for underground storage tanks. The cabinet shall develop and implement a program and promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United State Environmental Protection Agency pursuant to federal regulations.

(4) This Act and administrative regulations promulgated under authority of this Act shall supercede and preempt all local laws, ordinances, and regulations pertaining to the storage of regulated substances in underground storage tanks, except any applicable fire marshal regulations or local building permit procedures for petroleum storage tank installations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.

(a) For petroleum storage tank owners or operators of six (6) or more tanks, the level of financial responsibility to be established and maintained shall be twenty-five thousand dollars ($25,000) per occurrence for taking corrective action and twenty-five thousand dollars ($25,000) per occurrence for compensating third parties for bodily injury and property damage.

(b) For petroleum storage tank owners or operators of five (5) or less tanks, the level of financial responsibility to be established and maintained shall be ten thousand dollars ($10,000) per occurrence for taking corrective action and ten thousand dollars ($10,000) per occurrence for compensating third parties for bodily injury and property damage.

(2) Evidence of financial responsibility may be established by any combination of the following:

(a) Commercial or private insurance, including risk retention groups;

(b) Qualification as a self-insurer;

(c) A guarantee, surety bond, or letter of credit; or

(d) Any other reasonable and economically practicable means in a form acceptable to the commission.

(3) To qualify as a self-insurer the petroleum storage tank owner or operator shall demonstrate a net worth equal to or in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(4) The total liability of any guarantor under this Act is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

(5) It is the intent of the General Assembly that the fund established pursuant to Section 8 of this Act, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.

(6) The commission shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the commission shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is created a Petroleum Storage Tank Environmental Assurance Fund Commission which shall be composed of nine (9) members, appointed by the Governor, as follows:

(a) A representative of the Kentucky Petroleum Marketers Association;

(b) A representative of the Kentucky Gasoline Dealers Association;

(c) A representative of the Kentucky Petroleum Council;

(d) A representative of the Kentucky Chamber of Commerce;

(e) A representative of environmental interests;

(f) The Kentucky state fire marshal or a designated representative;

(g) The commissioner of the Department for Environmental Protection or a designated representative, who shall serve as chairperson of the commission; and

(h) Two (2) at-large members.

(2) The members shall serve four (4) year terms and until successors are appointed.

(3) Members of the commission shall be reimbursed for expenses for attendance at meetings of the commission.

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against the commission, or their agents or employees for any action taken in the performance of their powers and duties under this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall be created within sixty (60) days from the effective date of this Act.

(2) The commission shall:

(a) Establish by administrative regulation the policy, guidelines and procedures to administer the Petroleum Storage Tank Environmental Assurance Fund. At a minimum, the commission shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet federal financial responsibility requirements;

(b) Establish criteria to be met by a petroleum storage tank owner or operator to be eligible to participate in the fund and receive reimbursement from the fund. At a minimum, the qualifications shall include a reasonable assurance that the petroleum storage tank owner or operator substantially complied with all applicable federal and state laws and regulations in effect at the time of any release;

(c) Hear complaints brought before the commission regarding the payment of claims from the fund;

(d) Establish and maintain necessary offices within this state, appoint employees and agents as necessary and prescribe their duties and compensation;

(e) Employ, in accordance with the procedures found in KRS 45.700 to 45.720 for awarding personal service contracts, a qualified actuary to perform an actuarial study, no less than every two (2) years, that recommends to the commission an actuarially sound entry level to the fund prior to two (2) years from the effective date of this Act. The commission, shall by administrative regulation, set the entry level based upon the actuarial recommendation;

(f) Authorize expenditures from the fund to carry out the purpose of this Act including reasonable costs of administering the fund and the procurement of legal services; and

(g) Be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes.

(3) The commission shall hold at least four (4) regular meetings each calendar year at a place and time to be fixed by the commission. The commission shall also meet at the request of the chairman of the commission or upon a written request of three (3) members of the commission. Five (5) members constitute a quorum, and a quorum may act for the commission in all matters.

(4) The commission may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(5) The commission may sue and be sued in its own name.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) As required under administrative regulations of the cabinet, a petroleum storage tank owner or operator shall commence, or contract for, corrective action for a release into the environment from a petroleum storage tank.

(2) If a petroleum storage tank owner or operator fails or refuses to take corrective action, the cabinet may draw funds from the unobligated balance of the fund to initiate, or contract for, corrective action pursuant to this Act in accordance with subsection (3) of the section.

(3) Except as provided in subsection (4) of this section, before initiating, or contracting for, corrective action, the cabinet shall make a reasonable effort to notify and provide to the petroleum storage tank owner or operator an opportunity to comply with the requirements of this section.

(4) The cabinet may draw funds from the unobligated balance of the fund to undertake, or contract for, corrective action necessary to prevent or remedy an emergency situation threatening public health, safety, or the environment, resulting from a release into the environment from a petroleum storage tank unless a petroleum storage tank owner or operator is taking appropriate action to abate emergency situations in accordance with administrative regulations of the cabinet.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Petroleum Storage Tank Environmental Assurance Fund. The fund shall be maintained as a separate and distinct interest-bearing account. All of the following amounts shall be deposited in the fund:

(a) All fees collected pursuant to Section 10 of this Act;

(b) Any interest earned upon money deposited in the fund;

(c) Money appropriated by the General Assembly for deposit in the fund;

(d) Any money recovered by the fund pursuant to this section; and

(e) Any money collected in the form of penalties levied pursuant to Section 11 of this Act.

(2) Money in the fund may be used by the commission for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action as the result of a release into the environment from a petroleum storage tank;

(b) For payment of or reimbursement for any third-party claims of any nature including without limitation, claims for bodily injury and property damage and damage to natural resources which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank; and

(c) To pay the reasonable costs incurred by the commission in administering the fund.

(3) The use of the fund for corrective action and compensating third parties for bodily injury and property damage shall not exceed one million dollars ($1,000,000) per occurrence.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to subsections (2) and (4) of Section 7 of this Act.

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor

performing corrective action under contract with a petroleum storage tank owner or operator subject to deductible amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the commission for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to subsection (1) of Section 4 of this Act.

(7) The commission or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time.

(8) Except as provided in subsection (9) any costs incurred and payable from the fund for corrective action taken pursuant to subsection (2) of Section 7 of this Act shall be recovered by the commission from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the commission's cost incurred in the cost recovery, and any penalties applied in accordance with Section 11 of this Act. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsection (8) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the commission pursuant to this section shall be deposited in the fund.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13)(a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The fund shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14)(a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under this Act.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to this Act shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under this Act if such federal funds are determined to be unavailable.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) Sales or exchanges of gasoline and special fuels between dealers, gasoline and special fuels exported or sold for export from this state, gasoline and special fuels sold to any federal governmental agency, gasoline

and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be remitted to the State Treasurer and shall be collected and remitted at the same time and in the same manner as the motor fuel tax and special motor fuels tax under KRS 138.210 to 138.500.

(4) The petroleum environmental assurance fee shall be set at a rate of four-tenths (4/10ths) of one cent (1) for each gallon until the unobligated balance of the fund reaches ten million dollars ($10,000,000) and shall drop at the beginning of the next calendar quarter to a rate that the commission determines is necessary to maintain a ten million dollar ($10,000,000) balance. The rate shall be increased at the beginning of the next calendar quarter after the unobligated fund balance drops to six million dollars ($6,000,000) or less and remain at the higher amount not to exceed four-tenths (4/10ths) of one cent (1) until the unobligated fund balance reaches ten million dollars ($10,000,000).

(5) The commission shall review the unobligated fund balance at least quarterly and report, in accordance with administrative regulations promulgated pursuant to KRS 138.226, the rate of collection for the environmental assurance fee for the upcoming quarter to the secretary of the Revenue Cabinet.

(6) Dealers responsible for paying the petroleum environmental assurance fee shall be subject to the collection and enforcement provisions of KRS 138.290.

SECTION 10. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall levy and collect annual fees from the owners or operators of underground storage tanks containing regulated substances for the purpose of funding the administration of the underground storage tank program. The cabinet may promulgate administrative regulations specifying which underground storage tanks are subject to fees, the due date of the fees, and the amount of the fees annually. The fee shall not exceed thirty dollars ($30) per tank.

SECTION 11. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any underground storage tank owner or operator who fails to comply with KRS 224.814 or regulations promulgated thereto shall be subject to a civil penalty not to exceed five thousand dollars ($5,000) for each day of violation.

(2) In determining the civil penalty to be imposed pursuant to this section, the cabinet or court shall consider all relevant circumstances including, but not limited to, the extent of harm or potential harm caused by the violation, the nature and duration of the violation, the number of past violations, and any corrective action taken by the underground tank owner or operator.

(3) No civil penalty may be imposed under this section if the underground storage tank owner or operator already has been penalized for the same violation under federal regulations.

(4) The United States Environmental Protection Agency, for purposes of collecting civil penalties, is not a third-party claimant under any of the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

If any of the provisions of this Act are invalidated by any court of competent jurisdiction, the remainder of the provisions shall not be affected.

The Committee Substitute to **HB 194** is as follows:

HB 194, AN ACT relating to underground storage tanks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) Significant quantities of petroleum and petroleum products are being stored in petroleum storage tanks in the state to meet the needs of its citizens and to foster economic growth and development and the overall quality of life in the state;

(2) Spills, leaks, discharges, and other releases into the environment from petroleum storage tanks however, have occurred, are occurring, or will occur, and such releases may pose a threat to public health and safety and the environment;

(3) Adequate financial resources must be readily available to provide a means for investigation and cleanup of contamination without delay;

(4) In recent years, petroleum storage tank owners or operators have been unable to obtain affordable pollution liability insurance coverage to pay for corrective action measures;

(5) It is in the best interests of the state to protect public health and safety and the environment by creating a fund for corrective action measures for releases into the environment from petroleum storage tanks;

(6) Commercial insurers may increase the availability and affordability of pollution liability insurance coverage for petroleum storage tanks if a comprehensive and efficient financial responsibility program for tanks is established;

(7) An efficient program of financial responsibility should include corrective action requirements that encourage petroleum storage tank owners or operators to take corrective action measures in the first instance;

(8) An efficient program of financial responsibility for petroleum storage tanks should minimize disputes over the causation of and responsibility for releases into the environment from petroleum storage tanks;

(9) It is necessary and essential that the state use all practical means to control or eliminate pollution hazards posed by leaking petroleum storage tanks; and

(10) It is the intent of the General Assembly that a state fund be created to assist petroleum storage tank owners or operators in complying with the federal financial responsibility requirements promulgated under federal regulations and to assist petroleum storage tank owners or operators in cleaning up contamination caused by a release.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 through 10 of this Act, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Commission" means the Petroleum Storage Tank Environmental Assurance Fund Commission;

(5) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to Section 7 of this Act, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(6) "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(7) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(8) "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(9) "Free product" means petroleum or petroleum products in the nonaqueous phase, including liquid not dissolved in water that is beneath the surface of the ground;

(10) "Fund" means the Petroleum Storage Tank Environmental Assurance Fund established pursuant to Section 8 of this Act;

(11) "Gasoline" means gasoline as defined in KRS 138.210(4);

(12) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which result in a release into the environment from a petroleum storage tank;

(13) "Person" means an individual, trust, firm, joint stock company, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, or a commercial entity;

(14) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(15) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.810, which contains petroleum or petroleum products but shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives;

(16) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(17) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(18) "Received" means the same as defined in KRS 138.210(5);

(19) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law; and

(20) "Special fuels" means special fuels as defined in KRS 138.210(4).

Section 3. KRS 224.814 is amended to read as follows:

(1) Owners of any underground storage tank, currently existing, or taken out of operation after January 1, 1974, shall notify the cabinet of the existence of such tanks and a description of the tank and its use in accordance with regulations promulgated by the cabinet.

(2) The cabinet shall regulate underground storage tanks by requiring minimum construction and performance standards, leak detection, record keeping, reporting releases, corrective actions, closure, financial responsibility, and any other requirement deemed necessary by the cabinet to protect the public health and environment. In promulgating regulations to carry out this section the cabinet may distinguish between types, classes, and ages of underground storage tanks.

(3) It is the intent of the General Assembly that the cabinet shall establish a program to regulate underground storage tanks which implements federal regulatory requirements for underground storage tanks. The cabinet shall develop and implement a program and promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United State Environmental Protection Agency pursuant to federal regulations.

(4) This Act and administrative regulations promulgated under authority of this Act shall supercede and preempt all local laws, ordinances, and regulations pertaining to the storage of regulated substances in underground storage tanks, except:

(a) Any applicable fire marshal regulations or local building permit procedures for petroleum storage tank installations; or

(b) Any local law, ordinance, or regulation promulgated before July 15, 1990.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.

(a) For petroleum storage tank owners or operators of six (6) or more tanks, the level of financial responsibility to be established and maintained shall be twenty-five thousand dollars ($25,000) per occurrence for taking corrective action and twenty-five thousand dollars ($25,000) per occurrence for compensating third parties for bodily injury and property damage.

(b) For petroleum storage tank owners or operators of five (5) or less tanks, the level of financial responsibility to be established and maintained shall be ten thousand dollars ($10,000) per occurrence for taking corrective action and ten thousand dollars ($10,000) per occurrence for compensating third parties for bodily injury and property damage.

(2) Evidence of financial responsibility may be established by any combination of the following:

(a) Commercial or private insurance, including risk retention groups;

(b) Qualification as a self-insurer;

(c) A guarantee, surety bond, or letter of credit; or

(d) Any other reasonable and economically practicable means in a form acceptable to the commission.

(3) To qualify as a self-insurer the petroleum storage tank owner or operator shall demonstrate a net worth equal to or in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(4) The total liability of any guarantor under this Act is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

(5) It is the intent of the General Assembly that the fund established pursuant to Section 8 of this Act, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.

(6) The commission shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the commission shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is created a Petroleum Storage Tank Environmental Assurance Fund Commission which shall be composed of nine (9) members, appointed by the Governor, as follows:

(a) A representative of the Kentucky Petroleum Marketers Association;

(b) A representative of the Kentucky Gasoline Dealers Association;

(c) A representative of the Kentucky Petroleum Council;

(d) A representative of the Kentucky Chamber of Commerce;

(e) A representative of environmental interests;

(f) The Kentucky state fire marshal or a designated representative;

(g) The commissioner of the Department for Environmental Protection or a designated representative, who shall serve as chairperson of the commission; and

(h) Two (2) at-large members.

(2) The members shall serve four (4) year terms and until successors are appointed.

(3) Members of the commission shall be reimbursed for expenses for attendance at meetings of the commission.

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against the commission, or their agents or employees for any action taken in the performance of their powers and duties under this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall be created within sixty (60) days from the effective date of this Act.

(2) The commission shall:

(a) Establish by administrative regulation the policy, guidelines and procedures to administer the Petroleum Storage Tank Environmental Assurance Fund. At a minimum, the commission shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet federal financial responsibility requirements;

(b) Establish criteria to be met by a petroleum storage tank owner or operator to be eligible to participate in the fund and receive reimbursement from the fund. At a minimum, the qualifications shall include a reasonable assurance that the petroleum storage tank owner or operator substantially complied with all applicable federal and state laws and regulations in effect at the time of any release;

(c) Hear complaints brought before the commission regarding the payment of claims from the fund;

(d) Establish and maintain necessary offices within this state, appoint employees and agents as necessary and prescribe their duties and compensation;

(e) Employ, in accordance with the procedures found in KRS 45.700 to 45.720 for awarding personal service contracts, a qualified actuary to perform an actuarial study, no less than every two (2) years, that recommends to the commission an actuarially sound entry level to the fund prior to two (2) years from the effective date of this Act. The commission, shall by administrative regulation, set the entry level based upon the actuarial recommendation;

(f) Authorize expenditures from the fund to carry out the purpose of this Act including reasonable costs of administering the fund and the procurement of legal services; and

(g) Be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes.

(3) The commission shall hold at least four (4) regular meetings each calendar year at a place and time to be fixed by the commission. The commission shall also meet at the request of the chairman of the commission or upon a written request of three (3) members of the commission. Five (5) members constitute a quorum, and a quorum may act for the commission in all matters.

(4) The commission may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(5) The commission may sue and be sued in its own name.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) As required under administrative regulations of the cabinet, a petroleum storage tank owner or operator shall commence, or contract for, corrective action for a release into the environment from a petroleum storage tank.

(2) If a petroleum storage tank owner or operator fails or refuses to take corrective action, the cabinet may draw funds from the unobligated balance of the fund to initiate, or contract for, corrective action pursuant to this Act in accordance with subsection (3) of the section.

(3) Except as provided in subsection (4) of this section, before initiating, or contracting for, corrective action, the cabinet shall make a reasonable effort to notify and provide to the petroleum storage tank owner or operator an opportunity to comply with the requirements of this section.

(4) The cabinet may draw funds from the unobligated balance of the fund to undertake, or contract for, corrective action necessary to prevent or remedy an emergency situation threatening public health, safety, or the environment, resulting from a release into the environment from a petroleum storage tank unless a petroleum storage tank owner or operator is taking appropriate action to abate emergency situations in accordance with administrative regulations of the cabinet.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Petroleum Storage Tank Environmental Assurance Fund. The fund shall be maintained as a separate and distinct interest-bearing account. All of the following amounts shall be deposited in the fund:

(a) All fees collected pursuant to Section 10 of this Act;

(b) Any interest earned upon money deposited in the fund;

(c) Money appropriated by the General Assembly for deposit in the fund;

(d) Any money recovered by the fund pursuant to this section; and

(e) Any money collected in the form of penalties levied pursuant to Section 11 of this Act.

(2) Money in the fund may be used by the commission for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action as the result of a release into the environment from a petroleum storage tank;

(b) For payment of or reimbursement for any third-party claims of any nature including without limitation, claims for bodily injury and property damage and damage to natural resources which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank; and

(c) To pay the reasonable costs incurred by the commission in administering the fund.

(3) The use of the fund for corrective action and compensating third parties for bodily injury and property damage shall not exceed one million dollars ($1,000,000) per occurrence.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to subsections (2) and (4) of Section 7 of this Act.

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to deductible amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the commission for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to subsection (1) of Section 4 of this Act.

(7) The commission or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time.

(8) Except as provided in subsection (9) any costs incurred and payable from the fund for corrective action taken pursuant to subsection (2) of Section 7 of this Act shall be recovered by the commission from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the commission's cost incurred in the cost recovery, and any penalties applied in accordance with Section 11 of this Act. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsection (8) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the commission pursuant to this section shall be deposited in the fund.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13)(a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The fund shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14)(a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under this Act.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to this Act shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under this Act if such federal funds are determined to be unavailable.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at a rate of four-tenths (4/10ths) of one cent (1) for each gallon until the unobligated balance of the fund reaches ten million dollars ($10,000,000) and shall drop at the beginning of the next calendar quarter to a rate that the commission determines is necessary to maintain a ten million dollar ($10,000,000) balance. The rate shall be increased at the beginning of the next calendar quarter after the unobligated fund balance drops to six million dollars ($6,000,000) or less and remain at the higher amount not to exceed four-tenths (4/10ths) of one cent (1) until the unobligated fund balance reaches ten million dollars ($10,000,000).

(5) The commission shall review the unobligated fund balance at least quarterly and report to the Revenue Cabinet the rate of the fee to be applied for the next quarter. The notice shall be given by the commission to the secretary of the Revenue Cabinet not later than the first day of the month immediately preceding the quarterly period to which the rate applies.

(6) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall levy and collect annual fees from the owners or operators of underground storage tanks containing regulated substances for the purpose of funding the administration of the underground storage tank program. The cabinet may promulgate administrative regulations specifying which underground storage tanks are subject to fees, the due date of the fees, and the amount of the fees annually. The fee shall not exceed thirty dollars ($30) per tank.

SECTION 11. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any underground storage tank owner or operator who fails to comply with KRS 224.814 or regulations promulgated thereto shall be subject to a civil penalty not to exceed five thousand dollars ($5,000) for each day of violation.

(2) In determining the civil penalty to be imposed pursuant to this section, the cabinet or court shall

consider all relevant circumstances including, but not limited to, the extent of harm or potential harm caused by the violation, the nature and duration of the violation, the number of past violations, and any corrective action taken by the underground tank owner or operator.

(3) No civil penalty may be imposed under this section if the underground storage tank owner or operator already has been penalized for the same violation under federal regulations.

(4) The United States Environmental Protection Agency, for purposes of collecting civil penalties, is not a third-party claimant under any of the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

If any of the provisions of this Act are invalidated by any court of competent jurisdiction, the remainder of the provisions shall not be affected.

Section 13. Whereas, leaks from petroleum storage tanks have occurred and are occurring creating a risk to the environment and the owners of tanks are being held liable for the risks and certain tank owners must show financial responsibility by April 26, 1990 as required by federal law, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Title Amendment to **HB 194** is as follows:

Amend printed copy of **HB 194** on page 1, Title line, by changing the title to read as follows:

"AN ACT relating to underground storage tanks and declaring an emergency."

HCR 33, A CONCURRENT RESOLUTION reconstituting the Licking River Basin Task Force.

WHEREAS, the General Assembly realizes the extreme importance of flood control on the Licking River and its tributaries in northern Kentucky; and

WHEREAS, the Licking River Basin Task Force was created by the 1988 General Assembly for the purpose of studying the water resource potential of the Licking River Basin and its tributaries in northern Kentucky; and

WHEREAS, during the 1988-89 interim, the task force worked diligently reviewing potential lake proposals in the middle and lower parts of the Licking River Basin, investigating water supply and flood control needs, reviewing information about the economic development and tourism potential of lakes similar to those proposed for the basin, surveying environmental/cultural characteristics of the lake sites and gathering information about various funding sources; and

WHEREAS, the need to address regional problems through a group representing the region is of utmost importance and the existing area development districts divide rather than unite the Licking River Basin; and

WHEREAS, the task force provides a vehicle for citizen awareness and participation in matters pertaining to the Licking River Basin and its tributaries in northern Kentucky; and

WHEREAS, the United States Army Corps of Engineers commenced a reconnaissance study of the Licking River Basin in September, 1989, with completion date scheduled for September, 1990; and

WHEREAS, results of the ongoing reconnaissance study of the United States Army Corps of Engineers will require prompt, coordinating action by local, state and federal levels of government;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Licking River Basin Task Force shall be reconstituted and shall advise and make recommendations to the Legislative Research Commission on all matters relating to the Licking River and its tributaries in northern Kentucky, including:

1. The necessity for flood control;
2. The need for alternate potable water supplies;
3. The rationale for one or more impoundments;
4. The potential need for recreational development in the region;

5. The feasibility of economic development projects which could benefit the area, the effect on land and water resources; and

6. The overall level and commitment of community support for such projects.

Section 2. That the task force be composed of twenty-two (22) members, including the chairperson of the task force, and that all task force members be appointed by the co-chairpersons of the Legislative Research Commission. Membership on the task force shall be three (3) members of the House of Representatives from House districts in the area, to include: the sixty-first House district, the sixty-second House district, the sixty-fourth House district, the sixty-eighth House district, the sixty-ninth House district, the seventieth House district, and the seventy-fourth House district; two (2) Senators from Senatorial districts in the area, to include: the eleventh Senatorial district, the eighteenth Senatorial district, the twenty-third Senatorial district, the twenty-sixth Senatorial district, the twenty-eighth Senatorial district and the thirtieth Senatorial district; one (1) county judge/executive of a county within each House district listed above; one (1) mayor of a city within each Senate district listed above; one (1) member of a water district board within the area comprised of the House districts listed above; one (1) member of a soil conservation district board within the area comprised of the House districts listed above; one (1) citizen member of the Northern Kentucky Area Development District and one (1) citizen member of the Buffalo Trace Area Development District.

Section 3. That the task force members be reimbursed for their actual expenses in attending meetings and the performance of other official duties.

Section 4. That the task force shall report its findings to the Legislative Research Commission by September 1, 1991.

Section 5. Staff services to be utilized in operation of the task force are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee on Natural Resources and Environmental Protection reported **HB 239** and **HB 289** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 239, AN ACT relating to hunting and fishing licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in subsections (2) to (7) of this section, and subject to administrative regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes such act. It is the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for herein, except to such extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap or dip net.

(3) The resident owner of farmlands, his spouse or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season***,*** [~~(~~]except trapping[~~)~~] on ***the*** [~~said~~] farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon ***the*** [~~said~~] farmlands, shall have the same privilege.

(4) Residents or nonresidents attending and participating in any field trial as authorized by the department may so attend and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five (65) years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he ***shall*** [~~must~~] carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three (3) days ***in this state*** may, [~~in the county of his legal residence at the time of his entrance into the service,~~] without any ***Kentucky*** sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he ***shall*** [~~must~~] carry on his person proper identification and papers showing his furlough status.

(7) Any disabled American veteran who is at least fifty percent (50%) disabled as a result of a service-

connected disability who is residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while doing so ***shall*** [~~must~~] carry the card provided for by this subsection in order to be exempt from hunting or fishing license requirements. A disabled veteran shall obtain a copy of his disability rating from the veterans administration. He shall forward ***the*** [~~such~~] copy to the director of the Division of Law Enforcement of the Department of Fish and Wildlife Resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of ***the*** [~~such~~] certification.

(8) Resident landowners, their spouses or dependent children who kill or trap on their lands any wildlife causing damage to ***the*** [~~such~~] lands or any personal property situated thereon, shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon ***the*** [~~said~~] lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, ***the*** [~~such~~] act ***shall*** [~~must~~] be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(9) ***If*** [~~In the event~~] a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and ratified by the General Assembly and the similar authority of Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states ***shall be*** [~~are~~] permitted to perform the acts authorized by such license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the state of Kentucky. A resident of the state of Kentucky ***shall*** [~~must~~] purchase a proper Kentucky license to conform with the reciprocal agreement.

HB 289, AN ACT relating to hunting and fishing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in ***the following*** subsections [~~(2) to (7)~~] of this section, and subject to administrative regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes ***the*** [~~such~~] act. It ***shall be*** [~~is~~] the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for herein, except to ***the*** [~~such~~] extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap or dip net.

(3) The resident owner of farmlands, his spouse or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season***,*** [~~(~~]except trapping***,***[~~)~~] on [~~said~~] farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon ***these*** [~~said~~] farmlands, shall have the same privilege.

(4) Residents or nonresidents attending and participating in any field trial as authorized by the department may [~~so~~] attend and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five (65) years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by ***the*** [~~such~~] licenses, but while so doing he must carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three (3) days may, in the county of his legal residence at the time of his entrance into the service, without any sport hunting or sport fishing licenses, do any act authorized by ***the*** [~~such~~] licenses, but while so doing he must carry on his person proper identification and papers showing his furlough status.

(7) Any disabled American veteran who is at least fifty percent (50%) disabled as a result of a service-connected disability who is residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by ***the*** [~~such~~] licenses, but while doing so ***shall*** [~~must~~] carry the card provided for by this subsection in order to be exempt from hunting or fishing license requirements. A disabled veteran shall obtain a copy of his disability rating from the Veterans Administration. He shall forward ***the*** [~~such~~] copy to the Director of the Division of Law Enforcement of the Department of Fish and Wildlife Resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of ***the*** [~~such~~] certification.

(8) ***Any resident who is declared totally and permanently disabled by the federal Social Security***

Administration or by the State Workers' Compensation Board may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses.

(9) Resident landowners, their spouses or dependent children who kill or trap on their lands any wildlife causing damage to ***the*** [~~such~~] lands or any personal property situated thereon, shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon ***the*** [~~said~~] lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, ***the*** [~~such~~] act ***shall*** [~~must~~] be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(10)[~~(9)~~] ***If*** [~~In the event~~] a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and ratified by the General Assembly and the similar authority of Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states are permitted to perform the acts authorized by ***the*** [~~such~~] license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the state of Kentucky. A resident of the state of Kentucky ***shall*** [~~must~~] purchase a proper Kentucky license to conform with the reciprocal agreement.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "yea" on **HB 329**. Agreed.

Representative Ridley moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Ridley moved that he be recorded as voting "yea" on **HB 136**, **HB 16**, **HB 314**, **HB 97** and **HB 377**. Agreed.

Representative Brown moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Brown moved the adoption of the following Legislative Citation No. 26. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Pete Fournaris for your outstanding contribution to the education of the children at West Point Independent School.

The fine service that you render at West Point Independent School is noteworthy and demonstrates leadership qualities that serve as role models for our youth.

This prestigious body joins Representative Mark Brown in saluting Pete Fournaris for your dedication to education and assistance you have offered to the children of West Point Independent School.

Representative Deskins moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Deskins moved the adoption of the following Legislative Citation No. 27. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with deep compassion the passing of Henry Davis Stratton. Mr. Stratton became a member of the State Bar in 1950 and went on to practice in the United States District Court, United States Court of Appeals for the 6th Circuit and the Supreme Court of the United States.

Mr. Stratton has admirably served Kentucky and our legal system through a variety of chairmanships, program developments and as president of the Kentucky Bar Association.

This prestigious body joins Representative Herbie Deskins in honoring Henry D. Stratton for his magnitude of accomplishments and contributions to Kentucky's legal system. We extend our deepest sympathy to the family.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 78, Representative Hancock; **HB 221**, Representatives Altman, Callahan, Casebier, Geveden, Kerr, Mullinix, Nelson, Stumbo; **HB 231**, Representative A. Jones; **HB 239**, Representative Nelson; **HB 243**, Representative Riner; **HB 285**, Representative Bruce; **HB 329**, Representative Callahan; **HB 337**, Representative K. Harper; **HB 357**, Representative White; **HB 436**, Representative Blandford; **HB 476**, Representative Freibert; **HB 490**, Representative P. Richardson; **HB 492**, Representative Stokes; **HB 516**, Representative Maggard; **HB 517**, Representative Maggard; **HB 518**, Representative Maggard; **HJR 17**, Representative Stokes; **HCR 99**, Representative Sheehan; **HR 106**, Representative Noland.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 39**, by Representative Lear:

Amend printed copy of **HB 39** on page 1, line 13, by bracketing and striking through the words "plus one extra day"; and

On page 1, line 21, and page 2, line 1, by inserting "***and (j)***" after (a) and by bracketing and striking through ",(h) and (i)".

Floor Amendment No. 2 to the Committee Substitute to **HB 43**, by Representative Ward:

Amend printed copy of HCS for **HB 43** on page 2, line 10 by inserting after "***the***" the following: "***custodial parent, legal guardian, or next friend of the***";

On page 2, line 10 by deleting "***a***" and inserting "***an ex parte***" in lieu thereof;

On page 2, line 11 by inserting after the period "." the following:

"***The student shall not be charged District Court filing fees.***";

On page 2, line 23 by deleting "***Any person***" and inserting "***The student, if***" in lieu thereof;

On page 2, line 24 after "***section***" insert a comma "***,***";

On page 7, line 6 after "***(18)***" insert "***who has not graduated from high school***";

On page 8, line 22 after "***(18)***" insert "***who has not graduated from high school***"; and

On page 14, after line 3 by adding the following:

"Section 6. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in District Court shall be paid to the clerk at the time the case is filed and shall be thirty dollars ($30.00), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be fifteen dollars ($15.00);

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10.00);

(c) Where the case involves the appointment of guardians, conservators, and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10.00) for each appointment;

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10.00);

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10.00);

(f) Where the case involves mental health proceedings under KRS Chapter 202A, 202B or 387, there shall be no fee except as provided in paragraph (c) of this subsection; [~~and~~]

(g) ***Where the case involves a hearing for a student pursuant to Section 1 of this Act, there shall be no fee; and***

(h) Filing forcible detainer actions .... $10.00.

(2) Additional fees shall be charged in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	$ 1.00
(c) Providing a copy of a document (per page)	$ .15
(d) Issuing orders of attachment; executions; writ of possession after judgment	$10.00
(e) Issuing garnishments	$ 2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

For a jury of six (6) persons	$12.50

(5) The following fee shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

Service of process (per process)	$10.00

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs."

Floor Amendment No. 3 to the Committee Substitute to **HB 43**, by Representative Little:

Amend printed copy of HCS for **HB 43** on page 1, line 3 after "*(1)*" by inserting the following:

"***All school districts shall operate an alternative education program designed to meet the learning needs of students who are unable to succeed in the regular program.***

(2)" and

on page 1, line 21, by changing "*(2)*" to "*(3)*"; and

on page 2, line 14 by changing "*(3)*" to "*(4)*"; and

on page 3, line 2 by changing "*(4)*" to "*(5)*"; and

on page 3, line 18 by changing "*1(3)*" to "*1(4)*"; and

on page 14, line 3 by deleting "*(1)*".

Floor Amendment No. 4 to the Committee Substitute to **HB 43**, by Representative Little:

Amend printed copy of HCS to **HB 43** on page 1, line 3 after "*(1)*" by inserting the following:

"***At the first meeting of a local board of education held after the effective date of this Act, a local board shall vote whether its students shall comply with the provisions of this Act. The local board shall notify the secretary of the Transportation Cabinet of the action taken.***

(2)";

on page 1, line 21 by changing "*(2)*" to "*(3)*";

on page 2, line 14 by changing "*(3)*" to "*(4)*";

on page 3, line 2 by changing "(4)" to "*(5)*";

on page 3, line 16 after the word "***home***" by inserting the following: "***residing in a district implementing the provisions of this Act***";

on page 7, line 6 after "*(18)*" by inserting the following: "***residing in a district implementing the provisions of this Act***";

on page 8, line 22 after "*(18)*" by inserting the following: "***residing in a district implementing the provisions of this Act***";

on page 14, line 3 by deleting "*(1)*".

Floor Amendment No. 2 to **HB 214**, by Representative Clarke:

Amend printed copy of **HB 214** on page 24, line 16, by deleting the second use of the word "***or***" and inserting the word "***of***" in lieu thereof; and

On page 32, line 4, by deleting the word "***or***" and inserting the word "***of***" in lieu thereof; and

On page 44, line 17, by deleting the first use of the word "***be***" and inserting the word "***not***" in lieu thereof; and

On page 64, line 25, by deleting the hyphen from the word "***consul-general***"; and

On page 64, line 26, by deleting the hyphen from the word "***vice-consul***"; and

On page 67, line 17, by deleting the hyphens from the words "***consul-general***" and "***vice-consul***".

Floor Amendment No. 1 to **HB 253**, by Representative Curtsinger:

Amend printed copy of **HB 253** on page 2, line 19, after the word "number", by adding the following: "***, and the social security numbers and drivers license identification numbers of all salesmen employed by the applicant, or representing the applicant, in the transaction of business in the Commonwealth of Kentucky***".

Floor Amendment No. 1 to **HB 65**, by Representative T. Jones:

Amend printed copy of **HB 65** on page 4, lines 12 through 15, by deleting the sentence appearing on lines 12 through 15 beginning with the word "***The***" and ending with the word "***receipts.***"; and by adding in lieu thereof the following: "***The fund may receive state appropriations, gifts, grants and federal funds.***"

On page 6, line 18, delete the words "***Kentucky Heritage Land Conservation***" and insert in lieu thereof the word "***General***".

On page 8, after line 10, by adding the following:

Section 7. There is hereby appropriated from the General Fund to the Kentucky Heritage Land Conservation Fund four and one-half million dollars ($4,500,000) for fiscal year 1990-91 and four and one-half million dollars ($4,500,000) for fiscal year 1991-92.

Floor Title Amendment to **HB 65**, by Representative T. Jones:

Amend printed copy of **HB 65** by amending the title to read as follows:

"AN ACT relating to acquisition of natural areas, providing funding therefor and making an appropriation."

Floor Amendment No. 4 to the Committee Substitute to **HB 107**, by Representative Blevins:

Amend printed copy of HCS for **HB 107** on page 2, line 26, by adding after the word "***applicant***" the following new sentence: "***Preference in funding shall be given to applicants who have agreed to work in hospitals, skilled nursing facilities, intermediate care facilities, or primary care centers in rural areas of the state.***"

The Clerk announced the following meetings:

The Committee on Labor and Industry, February 7, 1990 at 8:30 a.m.

The Committee on Counties and Special Districts, February 7, 1990 at 8:30 a.m.

Adjournment

Represntative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 7, 1990.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Reinhardt, Richards, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White Yates, Zimmerman. Nays 5—Bronger, Deskins, Heleringer, LeMaster, Worthington.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 7, 1990

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Ray Crabtree, Abundant Light Church, Beattyville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 6, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 154, SB 181, SB 188, SB 190, HB 217** with Senate Amendment and **HB 187**.

Representative Reinhardt moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Reinhardt moved the adoption of the following Legislative Citation No. 21. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Highlands High School Football Team.

This body salutes the coaching staff and team members of the Highlands High School Football Team on claiming the title of 1989 AAA State Champions. The Highlands Bluebirds should be proud of the great honor and state recognition you have bestowed upon your school and community. Your excellent record of 14-1 reflects a high standard of performance, dedication, hard work, school spirit and personal sacrifice. May the memories and merits of this accomplishment remain with you and guide you through future endeavors.

This prestigious body joins Representative Jon Reinhardt in saluting you and may many more victories crown your efforts.

Representative Reinhardt individually honored the following members of the Highlands High School Football Team:

Steven Scott Aust, David Donald Bibb, Douglas Fredrick Bryant, James Middleton Cawood III, Steven Donald Combs, Charles Nathan Deaton, Shane Andrew Dougherty, Thomas F. Duffy, Jr., Jayson Lee Dunn, Andrew Adams Ellison, Ryan Douglas Engle, Chris William Gallichio, Donald L. Hartridge, Matthew James Hoffman, Kenneth Raymond Honchell, Donavan David Hornsby, Dwight Scott Johnson, Gregory Scott Kohls, Robert Steven Kuhnhein, Scott Frederick Meyers, William Dudley Miller IV, Kevin A. Nieporte, Jeffery Dean Rath, Bryan Todd Razor, Clark Aaron Richter, John Michael Riffe, William Wesley Robinson, Gregory William Roller, Brian Carson Schwalbach, Kenney Fitzpatrick Sheilds, Kevin Keith Shifferd, Steven Lawrence Siereveld, Brian R. Silz, John Eric Strange, Christopher A. Sturm, Peter Joseph Valz, Brian Scott Weinrich, Christopher Lee Wolfe, Anthony J. Zechella, Jason Eric Zink, and Coaches Jonathon David Collins, James K. Dougherty, Thomas F. Duffy, James Malcolm Higgins, and Thomas Edward Spritzky.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 104**:

HR 104, A RESOLUTION commending and honoring the 1989 Saint Gabriel's Elementary School Football Team for winning the Toy Bowl two years in a row.

WHEREAS, never before has the mighty Saint Gabriel's Elementary School Football Team won this historic bowl two consecutive years; and

WHEREAS, all Kentuckians are inspired by the character of Saint Gabriel's Elementary School Football Team, its cheerleaders, coaches, athletic director, principal, clergy, and community; and

WHEREAS, Saint Gabriel's School has offered outstanding academic service to the community of Fern Creek for over 35 years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hails the accomplishments of Saint Gabriel's Elementary School Football Team, seventh and eighth grade coaches Steve Willinghurst, Jeff Wilson, Jim Leet, Allen Cockerel, fifth and sixth grade coaches Allan Hennessey, Leo Miller, John Sawaya, John Yuda, Charlie Haury, Parker White and athletic director Ron Bierly upon winning the Toy Bowl two years in a row.

Section 2. That this honorable body highly commends Principal Allan Huelsman, Father Bill Hammer, and Father Steve Pohl for their commitment to excellence in Kentucky's Catholic youth.

Section 3. That Representative Bob Heleringer will personally deliver copies of this resolution to the triumphant Saint Gabriel's Football Team, coaches and athletic director.

HR 104 was adopted by voice vote.

Introduction of Bills and Resolutions

HB 525, by Representatives Ridley and Deskins: AN ACT relating to disability retirement.

HB 526, by Representatives Strong, Noe, Gedling, Turner, Lile, Walker, Todd, Lefevers, Bentley, Nelson, Maggard, Deskins, Stumbo, Siler and Cyrus: AN ACT relating to mining.

HB 527, by Representatives Callahan and Sheehan: AN ACT relating to the transfer of alcoholic beverage licenses.

HB 528, by Representatives Callahan and Sheehan: AN ACT relating to fines.

HB 529, by Representatives Bentley, Stumbo, White, Adkins, Noe, Mason, Gray, Hatcher, Strong, Cyrus, Preston, Lyne and Little: AN ACT relating to planning time for teachers.

HB 530, by Representatives Bentley, Mason and Nelson: AN ACT relating to mining.

HB 531, by Representative Scorsone: AN ACT relating to the issuance of citations.

HB 532, by Representative Ark: AN ACT relating to banking.

HB 533, by Representative Rapier: AN ACT relating to motor carriers.

HB 534, by Representative Lear: AN ACT relating to local government.

HB 535, by Representative Northup: AN ACT relating to fire departments in cities of the third class.

HB 536, by Representatives McBee and Burch: AN ACT relating to racing and intertrack wagering dates.

HB 537, by Representative Walker: AN ACT relating to statutory liens.

HR 107, by Representative Hatcher: A RESOLUTION adjourning in honor of Novella T. Bradley.

HR 108, by Representatives Gray and Hatcher: A RESOLUTION adjourning the House of Representatives in memory and honor of Dr. Grace James.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 521, HB 522.**

Business Organizations and Professions: **HB 520.**

Counties and Special Districts: **HB 515, HB 524.**

Economic Development and Tourism: **HJR 105.**

Health and Welfare: **SB 88, HB 523.**

Judiciary: **SB 103, HB 512.**

Labor and Industry: **HB 516.**

Natural Resources and Environmental Protection: **HB 513, HB 517, HB 518, HB 519.**

State Government: **HB 514**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 128**, **HB 476**, **HB 478**.

Health and Welfare: **HB 471**, **HB 501**.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 339** with Committee Substitute attached thereto, **HB 371**, **HB 375** with Committee Amendment attached thereto, and **HB 358** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 339, AN ACT relating to property tax compliance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Each electrical inspector certified under KRS 227.489 shall submit monthly to the Revenue Cabinet a report showing the names and addresses of all persons, firms, or corporations for which inspections were conducted for new buildings, new or relocated mobile homes, and other new or relocated structures during the preceding month. Each building, mobile home, or other structure shall be identified by county and property address, or property location in those instances where the address is insufficient to reveal the physical location of the property.

(2) The information provided shall be confidential and shall be used only for the purpose of making and maintaining accurate assessment records. The Revenue Cabinet shall provide to each electrical inspector the necessary forms and instructions for filing the report required under subsection (1).

SECTION 2. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) At the time a conveyance document is presented to the county clerk to be recorded, there shall be filed a declaration signed by at least one (1) of the transferors, or his attorney or agent, and by at least one (1) of the transferees, or his attorney or agent. In the absence of an agreement between the parties as to the contents of a joint declaration, more than one (1) declaration shall be filed. Each individual declaration shall be signed by a transferor or transferee, or by a transferor's or transferee's attorney or agent, or by multiple transferors, transferees, attorneys or agents. Each declaration shall state:

(a) Each property valuation administrator's map and parcel identification number for the property, if any, and whether the number exactly describes the parcel for which an interest is being transferred or only a portion of the parcel;

(b) The address of the property;

(c) The date of the conveyance document's execution;

(d) The actual date the beneficial ownership was transferred, if different from the date in (c) above;

(e) Whether the transfer includes an interest in land, the improvements affixed to land, or both, or an interest in a portion of the land, improvements, or both, as may be included in the property;

(f) Whether the transfer includes personalty and, if so, a description and the estimated value of such;

(g) The name, address and Social Security number of each transferor and transferee and any other signer of the declaration;

(h) The mailing address to which property tax bills or other official correspondence should be directed;

(i) The ownership interest transferred to transferee;

(j) The property classification category according to the following categories: residential, commercial, industrial, agricultural, vacant land, or other;

(k) The full price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, or other consideration, service, or agreement and whether the price actually paid is representative of the fair cash value of the property;

(l) In the case of a gift or devise, or if the price actually paid is not the fair cash value of the property, the estimated price that the property would bring in an open market in a sale between a willing buyer and a willing seller;

(m) Any family or business relationship between any transferor and any transferee; and

(n) The legal description of the property as contained in the conveyance document, a copy of which may be attached to the declaration.

(2) The filing of the declaration in accordance with this section shall be a condition for recording the conveyance document. The county clerk's office shall not record the declaration, but shall enter thereon the recording date and conveyance document number assigned to the instrument submitted for recording.

(3) The county clerk shall submit the declaration to the property valuation administrator of the county where the property is located. The declaration shall be considered a listing by the property owner for the following January 1 assessment date. Information which has been abstracted from the declarations and the document itself may be used by the property valuation administrator at any time for the purpose of determining assessed valuations of the property transferred and other property, and may also be used by officials and taxpayers for purposes of judicial and administrative review of assessments.

(4) The declaration shall be retained by the property valuation administrator as a public document not less than ten (10) years.

(5) The Revenue Cabinet shall provide an adequate supply of declaration forms which contain the requirements of this section to each county clerk's office.

(6) Any person who willfully falsifies the value of transferred real estate or willfully omits or falsifies any information required to be provided in the declaration or who prepares a declaration with knowledge that any information is falsified shall be guilty of a Class D felony. Any real property assessed at less than fair cash value as a result of falsified information shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(7) Those who sign a declaration shall attest in writing and under penalty of perjury that to the best of their knowledge and belief the information contained in the declaration is true and correct.

(8) This section shall create no cause of action between the parties to a conveyance document, and the penalties provided in subsections (6) and (7) of this section shall be the exclusive penalties for violations of this section.

Section 3. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in such property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of [~~January 1, 1962, and~~] January 1 of each year [~~thereafter~~]. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed such property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed such property with the property valuation administrator of the county of taxable situs or with the Revenue Cabinet between January 1 and April 15 in each year, except as otherwise prescribed by law. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer ***may list*** [~~who has a reasonable excuse for not listing~~] his property ***in person*** before the property valuation administrator or his deputy ***or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the cabinet, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property assessed at less than fair cash value as a result of the owner failing to provide information shall be subject to revaluation,***

and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290 [~~may make the necessary report required by the schedule as to the value of his property and may then return the schedule to the property valuation administrator. This shall be a compliance with the law in his particular case~~].

(3) [~~Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein, and it shall be assessed without reference to conflicting title.~~] If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of ***the*** [~~such~~] person without designating them by name.

(5) [~~Beginning in the year 1951,~~] All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of ***the*** [~~such~~] tax-exempt property, but ***the*** [~~such~~] property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the Revenue Cabinet within thirty (30) days of the close of the ***listing*** [~~taxing~~] period. This inventory shall be in the form prescribed by the Revenue Cabinet. The Revenue Cabinet shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the ***listing*** [~~taxing~~] period.

(6) Each property valuation administrator, under the direction of the Revenue Cabinet, shall review annually all real property listed with him under subsection (5) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all [~~such~~] property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

(7) Tangible personal property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the person who has possession of the property on the assessment date, and otherwise to "unknown owner." If the owner fails to file a tangible personal property tax return with either the property valuation administrator or the Revenue Cabinet, the property valuation administrator shall nevertheless assess the property. The property valuation administrator shall use methods prescribed by the Revenue Cabinet, including arbitrary and jeopardy assessments, in order to secure an assessment of the property.

Section 4. KRS 132.260 is amended to read as follows:

(1) Every warehouse company and every person engaged in the business of furnishing storage for personal property shall by [~~February 1, 1961, and~~] February 1 of each year [~~thereafter,~~] make a report to the property valuation administrator, giving, as far as possible, accurate and complete information as to all property held by them on [~~January 1, 1961, and~~] January 1 of each year [~~thereafter,~~] and the names and residences of the owners of all property so held on that date.

(2) Every person providing rental space for the parking of mobile homes and recreational vehicles ***on the mooring, docking, or storage of boats*** shall by [~~February 1, 1961, and by~~] February 1 of each year [~~thereafter,~~] report the name of the owner and type and size of all mobile homes and recreational vehicles not registered in this state under KRS 186.655 ***or boats not registered in this state under KRS 235.040*** on his premises on [~~January 1, 1961, and~~] January 1 of each year [~~thereafter~~] to the property valuation administrator of the county in which the property is located.

(3) The reports required by subsections (1) and (2) shall be made in accordance with the forms prescribed by the Revenue Cabinet and shall be signed and verified by the chief officer or person in charge of the business.

(4) The property valuation administrator may make a personal inspection and investigation of property held in storage and premises on which mobile homes and recreational vehicles are located, for the purpose of identifying and assessing such property. No person in charge of ***the*** [~~such~~] premises shall refuse to permit the inspection and investigation.

(5) Every operator of a mobile home and recreational vehicle park or every owner of property used for ***the*** [~~such~~] purposes when there is no operator, shall keep a register of all mobile homes and recreational vehicles which make use of the mobile home and recreational vehicle park. ***The*** [~~Such~~] register shall set forth:

(a) The name of the owner or occupier and all inhabitants of each mobile home and recreational vehicle;

(b) The permanent and temporary post office addresses of all inhabitants;

(c) The license numbers of all units;

(d) The state issuing ***the*** [~~such~~] license;

(e) The date of arrival and departure of each mobile home and recreational vehicle;

(f) The place of employment of all occupants.

(6) The register provided for in subsection (5) of this section shall be open to inspection to the county clerk and the property valuation administrator and all law enforcement agencies at all times.

(7) Every operator of a mobile home and recreational vehicle park or every owner of property used for ***the*** [~~such~~] purposes when there is no operator, shall during December, January and February each year furnish weekly to the property valuation administrator a copy of the register.

(8) Every operator of a marina, dock or facility for boat storage or any owner of property used for the purposes when there is no operator, shall keep a register of all boats which make use of such marina, dock or facility. The register shall set forth:

(a) The name of the owner of all boats for which space is provided;

(b) The address of all the boat owners;

(c) The registration number of all boats or, if no registration number, the documented name and home port of boats using the facility;

(d) Beginning and ending dates for which space is provided; and

(e) A description of all boats not registered in Kentucky which includes the information required for Kentucky registration.

(9) Every operator of a marina, dock or facility for boat storage or any owner of property used for the purpose when there is no operator shall, prior to April 15 of each year, furnish the register for the year preceding April 15 to the property valuation administrator.

Section 5. KRS 132.410 is amended to read as follows:

(1) The fiscal court of each county shall provide for the property valuation administrator a suitable office room or rooms in the county courthouse, or when that is not practicable, in some other building at the county seat, together with suitable furniture. In that office shall be safely kept the books, maps, taxpayers' lists, papers and all other records pertaining to the assessment of property within the county, except when ***the*** [~~such~~] records are required by law to be placed in the custody of other officers. ***No later than July 1, 1991, the Finance and Administration Cabinet, in cooperation with the Revenue Cabinet, shall evaluate each office for compliance with state office standards. The fiscal court shall, within six (6) months, correct any deficiencies in office facilities. Each office shall be evaluated at least once every four (4) years, or upon request by the property valuation administrator as a result of any significant change in the facilities.***

(2) The property valuation administrator shall engage in official duties at least five (5) days a week during regular working hours and shall keep scheduled office hours at least five (5) days each week.

Section 6. KRS 132.990 is amended to read as follows:

(1) Any person who willfully fails to supply the property valuation administrator or the Revenue Cabinet with a complete list of his property and ***the*** [~~such~~] facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who wilfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense, and the judgment of conviction may declare his office vacant.

(3) Any county clerk who willfully fails or neglects to perform any duty required of him [~~by KRS 132.480 or~~] by KRS 132.490 shall be fined not more than fifty dollars ($50.00) for each offense.

(4) Any person who wilfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

Section 7. KRS 133.040 is amended to read as follows:

(1) The property valuation administrator shall complete the tax roll of all real property in his county before the first Monday in April of each year in accordance with law, and on or before that date he shall file with the Revenue Cabinet, on blanks to be forwarded by the cabinet, a recapitulation of all property assessed on ***the*** [~~said~~] tax roll with his official certificate attached thereto. ***The*** [~~Such~~] recapitulation shall show the assessment of property by types of property and by taxing districts. Within fifteen (15) calendar days after receiving the recapitulation, the Revenue Cabinet shall direct the property valuation administrator to make any changes that are necessary to correct the assessment. ***In determining whether to accept or reject the property valuation administrator's recapitulation, the cabinet may use data obtained from the annual assessment ratio study, the biennial random sample appraisal provided for in accordance with KRS 133.250, the results of the performance audit required by provisions of KRS 131.140, or any other information it has that is related to the equity and quality of the assessment.*** The Revenue Cabinet shall preserve all recapitulations and schedules or a photographic facsimile thereof for a period of seven (7) years from the assessment date.

(2) At the time the property valuation administrator submits his property recapitulations to the cabinet he shall submit a copy of the recapitulations to the county judge/executive in each county, the treasurer or chief officer of each special district in the county, the chief administrative officer of the urban county and the superintendent of each local school district in his county.

Section 8. KRS 133.047 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 61.870 through 61.884, when the Revenue Cabinet has completed action on the assessment of property in any county and has certified the assessment [~~to the county clerk~~] of that county, as provided for in KRS 133.180, the property tax roll or a copy of the property tax roll[~~,~~] shall be retained in the office of the property valuation administrator for maintenance as an open public record for five (5) years. ***The*** [~~Such~~] property tax roll shall be available for public inspection during the regular working hours of the office of the property valuation administrator as provided for in KRS 132.410(2).

(2) Any person inspecting a property tax roll shall do so in a manner not unduly interfering with the proper operation of the custodian's office [~~and said person shall not use information obtained from the property tax roll(s) for commercial or business purposes unrelated to property valuation and assessment~~].

(3) A real property tax return and accompanying documentation submitted by a taxpayer shall be considered confidential under the provisions of KRS 131.190. Other real property records in the office of the property valuation administrator shall be subject to the provisions of KRS 61.870 through 61.884. Notwithstanding the provisions of KRS 61.874, the cost of staff time shall be included in the fee schedule. The Revenue Cabinet shall establish a uniform fee schedule for use by all property valuation administrators.

(4) All personal property tax returns, accompanying documents, and assessment records, with the exception of the certified tax roll, shall be considered confidential under the provisions of KRS 131.190, except that motor vehicle and motorboat records shall be handled in the same manner as real property records.

Section 9. KRS 133.110 is amended to read as follows:

After submission of the final real property recapitulation or certification of the personal property assessment, the [~~County judges/executive may, after giving notice to the county attorney, sheriff and~~] property valuation administrator ***may***[~~,~~] correct [~~any mere~~] clerical, ***mathematical, or procedural*** errors in ***a listing or*** an assessment or any duplication of assessment. ***Changes in assessed value based on appraisal methodology or opinion of value shall not be valid. All corrections shall be subject to review by the Revenue Cabinet and those changes determined by the cabinet to be invalid shall be rescinded. Any taxpayer affected by this rescission shall not be subject to additional penalties.*** [~~Any correction made without such notice shall be void.~~]

Section 10. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, [~~at any time not later than thirty (30) days~~] after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the ***property valuation administrator*** [~~county judge/executive~~] of the county in which the assessment was made. If the ***property valuation administrator*** [~~county judge/executive~~] finds that he was not the owner of the property assessed, he may correct the same by releasing him from the payment of the tax, and ***shall assess*** [~~the order exonerating the tax shall, upon delivery of a copy thereof to the property valuation administrator, constitute an order to have~~] the property immediately [~~listed~~] against the rightful owner.

(2) ***A protest*** [~~An appeal~~] may be ***made*** [~~taken~~] to the ***Revenue Cabinet under the provisions of KRS 131.110*** [~~circuit court~~] from any ***action*** [~~final order~~] of the ***property valuation administrator*** [~~county judge/executive~~] made under this section or under KRS 133.110. [~~The county judge/executive shall certify his actions to the Revenue Cabinet and sheriff. The sheriff shall not receive credit under this section unless copies of the judgments are furnished to the cabinet by June 1 after the judgments are entered.~~]

Section 11. KRS 133.250 is amended to read as follows:

(1) The Revenue Cabinet shall conduct ***annual assessment*** [~~sales-assessment~~] ratio studies for each county ***to be used in determining the acceptability*** [~~and shall submit the ratio to each property valuation administrator by September 1 of each year or within thirty (30) days of submission~~] of the property valuation administrator's [~~final~~] recapitulation to the cabinet as provided for in KRS ***133.040*** [~~133.125, whichever date is later~~]. Randomly selected sample appraisals shall be conducted by the Revenue Cabinet for each class of real property in each county no less than once every two (2) years to supplement sales data used in the assessment ratio study and to verify and enhance the statistical validity of the ratio study in determining measures of central tendency and variation.

(2) The property valuation administrator shall begin revaluation of property in his county, in preparation for the following year's property assessment, immediately following submission of the final recapitulation to the Revenue Cabinet as provided for in KRS 133.125.

[~~(3) By January 30 of each year, the Revenue Cabinet shall cause to be published in the newspaper of largest circulation in each county, a listing of the percentage of fair cash value attainment of real property assessments as calculated by assessment ratio studies which shall be conducted by the Revenue Cabinet.~~]

Section 12. KRS 134.190 is amended to read as follows:

(1) A sheriff who believes, on reasonable grounds, that any person from whom a tax is due is about to conceal or remove his property from the state, county or taxing district shall immediately collect the taxes in the manner provided for the collection of taxes, costs and penalties of delinquent taxpayers.

(2) Anyone holding royalties or payments derived from property shall, if requested by the Revenue Cabinet, sheriff, or collector, remit payment for taxes due on that property. The tax payment may be deducted from the royalties or payments owned to the property owner. The property tax bill receipt shall be evidence of payment and authorization for deduction.

Section 13. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the ***first calendar month following the*** month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) [~~Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due.~~] Any taxes which are [~~not~~] paid ***after*** [~~within thirty (30) days of~~] becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on ***the*** [~~said~~] taxes and penalty from the date of delinquency[~~; provided, however, that~~] No penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on ***the*** [~~said~~] motor vehicle, except as hereinafter provided.

(5) ***If*** [~~In the event that~~] an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration ***shall be*** [~~are~~] due and payable on or before the last day of the first birth month following ***the*** [~~said~~] assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) All motor vehicles currently titled and registered in this state held on an assignment by a licensed

Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(11) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. No lien for delinquent ad valorem taxes shall attach to any motor vehicle transferred while the taxes are due on that vehicle.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS data base. For the filing and release of each [~~such~~] lien or set of liens arising from motor vehicle ad valorem property tax delinquency a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 14. KRS 134.830 is amended to read as follows:

The collection of ad valorem taxes on motorboats shall be administered in the same manner and according to the same procedures provided for motor vehicles in KRS 134.800 to 134.820 ***except that, unless a birth month registration renewal system is adopted, the date of delinquency shall be September 1 of the year in which registration renewal is required.***

Section 15. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing***,*** [~~(~~]other than a will and other than a lease or easement[~~)~~], regardless of where made, executed or delivered ***by which*** [~~whereby~~] any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, [~~or any deed with nominal consideration or without stated consideration,~~] the estimated price***, stated in the declaration required by Section 2 of this Act, that*** the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed ***shall be*** [~~is~~] imposed at the rate of fifty cents (50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect such amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed ***or in the declaration required by Section 2 of this Act***.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain 5 percent as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Revenue Cabinet may prescribe [~~such rules and~~] regulations [~~as it may deem~~] necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the [~~declared~~] value indicated in the ***declaration required by Section 2 of this Act*** [~~affidavit appended to such deed~~] shall, upon conviction, be fined $50 for each offense.

(7) [~~Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than $100 or to imprisonment for not more than thirty (30) days or to both such fine and imprisonment for each offense.~~

~~(8)~~]. The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To (in the event of a deed of gift or deed with nominal consideration) or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation.

Section 16. The following KRS sections are repealed:

132.480 Monthly report of real estate conveyances, by county clerk to property valuation administrator — Compensation of clerk.

134.825 Costs of programming and administering AVIS for ad valorem collections to be paid by Finance and Administration Cabinet.

The Committee Substitute to **HB 339** is as follows:

HB 339, AN ACT relating to property tax compliance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Each electrical inspector certified under KRS 227.489 shall submit monthly to the Revenue Cabinet a report showing the names and addresses of all persons, firms, or corporations for which inspections were conducted for new buildings, new or relocated mobile homes, and other new or relocated structures during the preceding month. Each building, mobile home, or other structure shall be identified by county and property address, or property location in those instances where the address is insufficient to reveal the physical location of the property.

(2) The information provided shall be confidential and shall be used only for the purpose of making and maintaining accurate assessment records. The Revenue Cabinet shall provide to each electrical inspector the necessary forms and instructions for filing the report required under subsection (1).

SECTION 2. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) At the time a conveyance document is presented to the county clerk to be recorded, there shall be filed a declaration signed by at least one (1) of the transferors, or his attorney or agent, and by at least one (1) of the transferees, or his attorney or agent. In the absence of an agreement between the parties as to the contents of a joint declaration, more than one (1) declaration shall be filed. Each individual declaration shall be signed by a transferor or transferee, or by a transferor's or transferee's attorney or agent, or by multiple transferors, transferees, attorneys or agents. Each declaration shall state:

(a) The address of the property;

(b) The date of the conveyance document's execution;

(c) The actual date the beneficial ownership was transferred, if different from the date in (c) above;

(d) Whether the transfer includes an interest in land, the improvements affixed to land, or both, or an interest in a portion of the land, improvements, or both, as may be included in the property;

(e) Whether the transfer includes personalty and, if so, a description and the estimated value of such;

(f) The name, address and Social Security number of each transferor and transferee and any other signer of the declaration;

(g) The mailing address to which property tax bills or other official correspondence should be directed;

(h) The ownership interest transferred to transferee;

(i) The property classification category according to the following categories: residential, commercial, industrial, agricultural, vacant land, or other;

(j) The full price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, or other consideration, service, or agreement and whether the price actually paid is representative of the fair cash value of the property;

(k) In the case of a gift or devise, or if the price actually paid is not the fair cash value of the property, the estimated price that the property would bring in an open market in a sale between a willing buyer and a willing seller;

(l) Any family or business relationship between any transferor and any transferee; and

(m) The legal description of the property as contained in the conveyance document, a copy of which may be attached to the declaration.

(2) The filing of the declaration in accordance with this section shall be a condition for recording the conveyance document. The county clerk's office shall not record the declaration, but shall enter thereon the recording date and conveyance document number assigned to the instrument submitted for recording.

(3) The county clerk shall submit the declaration to the property valuation administrator of the county where the property is located. The declaration shall be considered a listing by the property owner for the following January 1 assessment date. Information which has been abstracted from the declarations and the document itself may be used by the property valuation administrator at any time for the purpose of determining assessed valuations of the property transferred and other property, and may also be used by officials and taxpayers for purposes of judicial and administrative review of assessments.

(4) The declaration shall be retained by the property valuation administrator as a public document not less than ten (10) years.

(5) The Revenue Cabinet shall provide an adequate supply of declaration forms which contain the requirements of this section to each county clerk's office.

(6) Any person who willfully falsifies the value of transferred real estate or willfully omits or falsifies any information required to be provided in the declaration or who executes a declaration with knowledge that any information is falsified shall be guilty of a Class D felony. Any real property assessed at less than fair cash value as a result of falsified information shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(7) Those who sign a declaration shall attest in writing and under penalty of perjury that to the best of their knowledge and belief the information contained in the declaration is true and correct.

(8) This section shall create no cause of action between the parties to a conveyance document, and the penalties provided in subsections (6) and (7) of this section shall be the exclusive penalties for violations of this section.

Section 3. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed

and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in such property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of [~~January 1, 1962, and~~] January 1 of each year [~~thereafter~~]. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed such property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed such property with the property valuation administrator of the county of taxable situs or with the Revenue Cabinet between January 1 and April 15 in each year, except as otherwise prescribed by law. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer ***may list*** [~~who has a reasonable excuse for not listing~~] his property ***in person*** before the property valuation administrator or his deputy ***or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the cabinet, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property assessed at less than fair cash value as a result of the owner failing to provide information shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290*** [~~may make the necessary report required by the schedule as to the value of his property and may then return the schedule to the property valuation administrator. This shall be a compliance with the law in his particular case~~].

(3) [~~Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein, and it shall be assessed without reference to conflicting title.~~] If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of ***the*** [~~such~~] person without designating them by name.

(5) [~~Beginning in the year 1951,~~] All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of ***the*** [~~such~~] tax-exempt property, but ***the*** [~~such~~] property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the Revenue Cabinet within thirty (30) days of the close of the ***listing*** [~~taxing~~] period. This inventory shall be in the form prescribed by the Revenue Cabinet. The Revenue Cabinet shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the ***listing*** [~~taxing~~] period.

(6) Each property valuation administrator, under the direction of the Revenue Cabinet, shall review annually all real property listed with him under subsection (5) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all [~~such~~] property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

(7) Tangible personal property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the person who has possession of the property on the assessment date, and otherwise to "unknown owner." If the owner fails to file a tangible personal property tax return with either the property valuation administrator or the Revenue Cabinet, the property valuation administrator shall nevertheless assess the property. The property valuation administrator shall use methods prescribed by the Revenue Cabinet, including arbitrary and jeopardy assessments, in order to secure an assessment of the property.

Section 4. KRS 132.260 is amended to read as follows:

(1) Every warehouse company and every person engaged in the business of furnishing storage for personal property shall by [~~February 1, 1961, and~~] February 1 of each year [~~thereafter,~~] make a report to the property valuation administrator, giving, as far as possible, accurate and complete information as to all property held

by them on [~~January 1, 1961, and~~] January 1 of each year [~~thereafter,~~] and the names and residences of the owners of all property so held on that date.

(2) Every person providing rental space for the parking of mobile homes and recreational vehicles ***or the mooring, docking, or storage of boats*** shall by [~~February 1, 1961, and by~~] February 1 of each year [~~thereafter,~~] report the name of the owner and type and size of all mobile homes and recreational vehicles not registered in this state under KRS 186.655 ***or boats not registered in this state under KRS 235.040*** on his premises on [~~January 1, 1961, and~~] January 1 of each year [~~thereafter~~] to the property valuation administrator of the county in which the property is located.

(3) The reports required by subsections (1) and (2) shall be made in accordance with the forms prescribed by the Revenue Cabinet and shall be signed and verified by the chief officer or person in charge of the business.

(4) The property valuation administrator may make a personal inspection and investigation of property held in storage and premises on which mobile homes and recreational vehicles are located, for the purpose of identifying and assessing such property. No person in charge of ***the*** [~~such~~] premises shall refuse to permit the inspection and investigation.

(5) Every operator of a mobile home and recreational vehicle park or every owner of property used for ***the*** [~~such~~] purposes when there is no operator, shall keep a register of all mobile homes and recreational vehicles which make use of the mobile home and recreational vehicle park. ***The*** [~~Such~~] register shall set forth:

(a) The name of the owner or occupier and all inhabitants of each mobile home and recreational vehicle;

(b) The permanent and temporary post office addresses of all inhabitants;

(c) The license numbers of all units;

(d) The state issuing ***the*** [~~such~~] license;

(e) The date of arrival and departure of each mobile home and recreational vehicle;

(f) The place of employment of all occupants.

(6) The register provided for in subsection (5) of this section shall be open to inspection to the county clerk and the property valuation administrator and all law enforcement agencies at all times.

(7) Every operator of a mobile home and recreational vehicle park or every owner of property used for ***the*** [~~such~~] purposes when there is no operator, shall during December, January and February each year furnish weekly to the property valuation administrator a copy of the register.

(8) Every operator of a marina, dock or facility for boat storage or any owner of property used for the purposes when there is no operator, shall keep a register of all boats which make use of such marina, dock or facility. The register shall set forth:

(a) The name of the owner of all boats for which space is provided;

(b) The address of all the boat owners;

(c) The registration number of all boats or, if no registration number, the documented name and home port of boats using the facility;

(d) Beginning and ending dates for which space is provided; and

(e) A description of all boats not registered in Kentucky which includes the information required for Kentucky registration.

(9) Every operator of a marina, dock or facility for boat storage or any owner of property used for the purpose when there is no operator shall, prior to April 15 of each year, furnish the register for the year preceding April 15 to the property valuation administrator.

Section 5. KRS 132.410 is amended to read as follows:

(1) The fiscal court of each county shall provide for the property valuation administrator a suitable office room or rooms in the county courthouse, or when that is not practicable, in some other building at the county seat, together with suitable furniture. In that office shall be safely kept the books, maps, taxpayers' lists, papers and all other records pertaining to the assessment of property within the county, except when ***the*** [~~such~~] records are required by law to be placed in the custody of other officers. ***No later than July 1, 1991, the Finance and Administration Cabinet, in cooperation with the Revenue Cabinet, shall evaluate***

each office for compliance with state office standards. The fiscal court shall, within six (6) months, correct any deficiencies in office facilities. Each office shall be evaluated at least once every four (4) years, or upon request by the property valuation administrator as a result of any significant change in the facilities.

(2) The property valuation administrator shall engage in official duties at least five (5) days a week during regular working hours and shall keep scheduled office hours at least five (5) days each week.

Section 6. KRS 132.990 is amended to read as follows:

(1) Any person who willfully fails to supply the property valuation administrator or the Revenue Cabinet with a complete list of his property and ***the*** [~~such~~] facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who wilfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense, and the judgment of conviction may declare his office vacant.

(3) Any county clerk who willfully fails or neglects to perform any duty required of him [~~by KRS 132.480 or~~] by KRS 132.490 shall be fined not more than fifty dollars ($50.00) for each offense.

(4) Any person who wilfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

Section 7. KRS 133.040 is amended to read as follows:

(1) The property valuation administrator shall complete the tax roll of all real property in his county before the first Monday in April of each year in accordance with law, and on or before that date he shall file with the Revenue Cabinet, on blanks to be forwarded by the cabinet, a recapitulation of all property assessed on ***the*** [~~said~~] tax roll with his official certificate attached thereto. ***The*** [~~Such~~] recapitulation shall show the assessment of property by types of property and by taxing districts. Within fifteen (15) calendar days after receiving the recapitulation, the Revenue Cabinet shall direct the property valuation administrator to make any changes that are necessary to correct the assessment. ***In determining whether to accept or reject the property valuation administrator's recapitulation, the cabinet may use data obtained from the annual assessment ratio study, the biennial random sample appraisal provided for in accordance with KRS 133.250, the results of the performance audit required by provisions of KRS 131.140, or any other information it has that is related to the equity and quality of the assessment.*** The Revenue Cabinet shall preserve all recapitulations and schedules or a photographic facsimile thereof for a period of seven (7) years from the assessment date.

(2) At the time the property valuation administrator submits his property recapitulations to the cabinet he shall submit a copy of the recapitulations to the county judge/executive in each county, the treasurer or chief officer of each special district in the county, the chief administrative officer of the urban county and the superintendent of each local school district in his county.

Section 8. KRS 133.047 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 61.870 through 61.884, when the Revenue Cabinet has completed action on the assessment of property in any county and has certified the assessment [~~to the county clerk~~] of that county, as provided for in KRS 133.180, the property tax roll or a copy of the property tax roll[~~,~~] shall be retained in the office of the property valuation administrator for maintenance as an open public record for five (5) years. ***The*** [~~Such~~] property tax roll shall be available for public inspection during the regular working hours of the office of the property valuation administrator as provided for in KRS 132.410(2).

(2) Any person inspecting a property tax roll shall do so in a manner not unduly interfering with the proper operation of the custodian's office [~~and said person shall not use information obtained from the property tax roll(s) for commercial or business purposes unrelated to property valuation and assessment~~].

(3) A real property tax return and accompanying documentation submitted by a taxpayer shall be considered confidential under the provisions of KRS 131.190. Other real property records in the office of the property valuation administrator shall be subject to the provisions of KRS 61.870 through 61.884. Notwithstanding the provisions of KRS 61.874, the cost of staff time shall be included in the fee schedule. The Revenue Cabinet shall establish a uniform fee schedule for use by all property valuation administrators.

(4) All personal property tax returns, accompanying documents, and assessment records, with the exception of the certified tax roll, shall be considered confidential under the provisions of KRS 131.190, except that motor vehicle and motorboat records shall be handled in the same manner as real property records.

Section 9. KRS 133.110 is amended to read as follows:

After submission of the final real property recapitulation or certification of the personal property assessment, the [~~County judges/executive may, after giving notice to the county attorney, sheriff and~~] property valuation administrator ***may***[~~,~~] correct [~~any mere~~] clerical***, mathematical, or procedural*** errors in ***a listing or*** an assessment or any duplication of assessment. ***Changes in assessed value based on appraisal methodology or opinion of value shall not be valid. All corrections shall be reviewed by the Revenue Cabinet and those changes determined by the cabinet to be invalid shall be rescinded. Any taxpayer affected by this rescission shall not be subject to additional penalties.*** [~~Any correction made without such notice shall be void.~~]

Section 10. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, [~~at any time not later than thirty (30) days~~] after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the ***property valuation administrator*** [~~county judge/executive~~] of the county in which the assessment was made. If the ***property valuation administrator*** [~~county judge/executive~~] finds that he was not the owner of the property assessed, he may correct the same by releasing him from the payment of the tax, and ***shall assess*** [~~the order exonerating the tax shall, upon delivery of a copy thereof to the property valuation administrator, constitute an order to have~~] the property immediately [~~listed~~] against the rightful owner.

(2) ***A protest*** [~~An appeal~~] may be ***made*** [~~taken~~] to the ***Revenue Cabinet under the provisions of KRS 131.110*** [~~circuit court~~] from any ***action*** [~~final order~~] of the ***property valuation administrator*** [~~county judge/executive~~] made under this section or under KRS 133.110. [~~The county judge/executive shall certify his actions to the Revenue Cabinet and sheriff. The sheriff shall not receive credit under this section unless copies of the judgments are furnished to the cabinet by June 1 after the judgments are entered.~~]

Section 11. KRS 133.250 is amended to read as follows:

(1) The Revenue Cabinet shall conduct ***annual assessment*** [~~sales-assessment~~] ratio studies for each county ***to be used in determining the acceptability*** [~~and shall submit the ratio to each property valuation administrator by September 1 of each year or within thirty (30) days of submission~~] of the property valuation administrator's [~~final~~] recapitulation to the cabinet as provided for in KRS ***133.040*** [~~133.125, whichever date is later~~]. Randomly selected sample appraisals shall be conducted by the Revenue Cabinet for each class of real property in each county no less than once every two (2) years to supplement sales data used in the assessment ratio study and to verify and enhance the statistical validity of the ratio study in determining measures of central tendency and variation.

(2) The property valuation administrator shall begin revaluation of property in his county, in preparation for the following year's property assessment, immediately following submission of the final recapitulation to the Revenue Cabinet as provided for in KRS 133.125.

[~~(3) By January 30 of each year, the Revenue Cabinet shall cause to be published in the newspaper of largest circulation in each county, a listing of the percentage of fair cash value attainment of real property assessments as calculated by assessment ratio studies which shall be conducted by the Revenue Cabinet.~~]

Section 12. KRS 134.190 is amended to read as follows:

(1) A sheriff who believes, on reasonable grounds, that any person from whom a tax is due is about to conceal or remove his property from the state, county or taxing district shall immediately collect the taxes in the manner provided for the collection of taxes, costs and penalties of delinquent taxpayers.

(2) Anyone holding royalties or payments derived from property shall, if requested by the Revenue Cabinet, sheriff, or collector, remit payment for taxes due on that property. The tax payment may be deducted from the royalties or payments owned to the property owner. The property tax bill receipt shall be evidence of payment and authorization for deduction.

Section 13. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the ***first calendar month following the*** month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) [~~Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due.~~] Any taxes which are [~~not~~] paid ***after*** [~~within thirty (30) days of~~] becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on ***the*** [~~said~~] taxes and penalty from the date of delinquency[~~; provided, however, that~~] No penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on ***the*** [~~said~~] motor vehicle, except as hereinafter provided.

(5) ***If*** [~~In the event that~~] an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration ***shall be*** [~~are~~] due and payable on or before the last day of the first birth month following ***the*** [~~said~~] assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) All motor vehicles currently titled and registered in this state held on an assignment by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(11) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. No lien for delinquent ad valorem taxes shall attach to any motor vehicle transferred while the taxes are due on that vehicle.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS data base. For the filing and release of each [~~such~~] lien or set of liens arising from motor vehicle ad valorem property tax delinquency a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 14. KRS 134.830 is amended to read as follows:

The collection of ad valorem taxes on motorboats shall be administered in the same manner and according to the same procedures provided for motor vehicles in KRS 134.800 to 134.820 ***except that, unless a birth month registration renewal system is adopted, the date of delinquency shall be September 1 of the year in which registration renewal is required.***

Section 15. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing***,*** [~~(~~]other than a will and other than a lease or easement[~~)~~], regardless of where made, executed or delivered ***by which*** [~~whereby~~] any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, [~~or any deed with nominal consideration or without stated consideration,~~] the estimated price***, stated in the declaration required by Section 2 of this Act, that*** the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed ***shall be*** [~~is~~] imposed at the rate of fifty cents (50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect such amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed ***or in the declaration required by Section 2 of this Act***.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain 5 percent as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Revenue Cabinet may prescribe [~~such rules and~~] regulations [~~as it may deem~~] necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the [~~declared~~] value indicated in the ***declaration required by Section 2 of this Act*** [~~affidavit appended to such deed~~] shall, upon conviction, be fined $50 for each offense.

(7) [~~Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than $100 or to imprisonment for not more than thirty (30) days or to both such fine and imprisonment for each offense.~~

~~(8)~~] The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To (in the event of a deed of gift or deed with nominal consideration) or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation.

Section 16. The following KRS sections are repealed:

132.480 Monthly report of real estate conveyances, by county clerk to property valuation administrator — Compensation of clerk.

134.825 Costs of programming and administering AVIS for ad valorem collections to be paid by Finance and Administration Cabinet.

HB 371, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.210 is amended to read as follows:

(1) The taxes herein imposed ***shall*** [~~may~~] be collected by the retailer from the consumer.

(2) Except as provided in subsection (3) of this section, the tax required to be collected by the retailer from the consumer shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(3) The cabinet may relieve certain retailers from the provisions of subsection (2) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable.

(4) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(5) The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 2. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. ***The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.***

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser or solicitor for ***the*** [~~such~~] person; or

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media or other facility or service located in this state.

HB 375, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

The Revenue Cabinet may promulgate administrative regulations providing for the reporting of gross receipts and payment of taxes levied by this chapter on a basis other than accrual.

SECTION 2. A NEW SECTION OF KRS CHAPTER 143 IS CREATED TO READ AS FOLLOWS:

(1) Taxpayers severing coal in Kentucky and partially or wholly processing the coal outside of Kentucky thereafter and taxpayers severing coal outside of Kentucky and partially or wholly processing the coal in Kentucky thereafter shall determine and report the gross value of the coal by application of the following formula:

(a) Determine the direct cost of severing or processing the coal in Kentucky as defined in subsections (d) and (e) of this section.

(b) Determine the direct cost of severing or processing the the coal outside of Kentucky as defined in subsections (d) and (e) of this section.

(c) Exclude from subsections (a) and (b) of this section transportation expense as defined in KRS 143.010(11) and overhead cost as defined in subsection (f) of this section.

(d) Include in the direct cost of severing coal: black lung excise tax; contract mining, less transportation expense contained therein; cost depletion; depreciation; development; equipment rental; explosives; fuel; labor and associated expenses; maintenance; reclamation; royalties when based on tons severed; and wheelage.

(e) Include in the direct cost of processing coal: depreciation; equipment rental; fee processing; fuel; labor and associated expense; maintenance; and refuse disposal.

(f) Include in the overhead costs: commissions; freight yard and siding expense; general expense; general insurance and supervision; general office expense; idle time expense; inventory adjustments; mine closing expense; officers' salaries; percentage depletion; quality analysis; scale and weighman's expense; transportation expense and taxes, including sales, coal severance, property, franchises and state income taxes.

(2) For purposes of computing the formula under this section, any expense which is not directly attributable to either the severing or processing of the coal shall be classified as an overhead cost.

(3) Direct cost determined in subsection (a) of this section divided by the total of direct cost determined in subsection (a) of this section and the direct cost determined in subsection (b) of this section and the result multiplied by the gross value of the coal shall equal the proportion of gross value which is subject to the tax levied under KRS 143.020.

(4) Any taxpayer determining taxable gross value as provided in this section shall submit supporting computations and classifications of cost with each coal tax return, unless the cabinet authorizes the taxpayer to submit the supporting information on a basis other than monthly.

Section 3. KRS 136.030 is amended to read as follows:

(1) The individual stockholders of a corporation shall not be required to list their shares for ad valorem taxation so long as the corporation pays taxes to the state of Kentucky on at least seventy-five percent (75%) of its total property, wherever located.[~~, provided, however, that~~] Bonds and obligations of the United States of America and its possessions and bonds and obligations of the state of Kentucky, its instrumentalities and its political subdivisions and their instrumentalities shall not be considered in the computation of the total property of the corporation, wherever located, nor in the computation of the amount of property upon which the corporation pays ad valorem taxes to the state of Kentucky. In order to obtain this exemption, the stockholder ***shall*** [~~must~~] furnish satisfactory proof to the Revenue Cabinet that at least seventy-five percent (75%) of the total property of the corporation as hereinabove specified is taxed in the state of Kentucky.

(2) Every corporation organized under the laws of this state, or doing business in this state, whose stock is liable to assessment and taxation under subsection (1) of this section, except banks, trust companies, or combined banks and trust companies doing business in this state and domestic life insurance companies, shall by February 15, of each year make a true and correct report to the Revenue Cabinet signed by its president, secretary, treasurer or other chief officer, giving the names and addresses of residents of this state who hold its shares of stock and outstanding bonds as of January 1 previous thereto, and also the transfer of any of its stocks or bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(3) Every broker-dealer or his agent doing business in this state pursuant to KRS Chapter 292, shall on or before March 1, each year, as of the preceding January 1, furnish the Revenue Cabinet the following information:

(a) Name and address of all Kentucky residents whose stocks, bonds or other securities are held in a name other than that of the actual owner and which are in the possession of or subject to the control of such broker-dealer or his agent, for the benefit of such actual owner. This shall be construed to include all accounts fully paid for if the stock certificates have not been sent to the Kentucky residents;

(b) Name of company by whom stocks, bonds, options, index futures or other securities were issued;

(c) Number of shares and type of each stock, interest rate, maturity date, par value, and number of bonds held and sufficient information to measure the quantity of other securities; and

(d) Market value as of the previous January 1.

Section 4. KRS 136.130 is amended to read as follows:

(1) Each corporation included in KRS 136.120 (1) shall annually, between December 31, and ***April 30,*** [~~March 31~~] following, make and deliver to the Revenue Cabinet a report in such form as the cabinet may prescribe, showing such of the following facts as may be requested by the cabinet: The name and principal place of business of the corporation; the kind of business engaged in; the amount of capital stock, preferred

and common, and the number of shares of each; the amount of stock paid up; the par and fair cash value of the stock; the highest price at which ***the*** [~~such~~] stock was sold at a bona fide sale within twelve (12) months next before December 31 of the year for which the report is required to be made; the amount of surplus funds and undivided profits; the total amount of indebtedness as principal; the cost and year acquired of all operating property owned, operated, or leased, including property under construction, property held for future use, and the depreciation attributable thereto as of December 31, the cost and year acquired of all nonoperating tangible property and the depreciation attributable thereto; the cost and market value as of December 31 of all intangible property; the value of all other assets; the operating and nonoperating revenues, the net utility operating income before and after depreciation and before and after income taxes, the net income from operations, the net income including income from investments, and income from all other sources for twelve (12) months next preceding December 31 of the year for which the report is required; the amount and kind of operating property in this state, and where situated in each county, city, and taxing district, assessed or liable to assessment in this state, and the fair cash value thereof, the length and description of all the lines operated, owned, or leased in this state and in each county, city, and taxing district; and such other facts as the cabinet may require.

(2) The report shall cover the period of twelve (12) months ending December 31. The cabinet may change the date of the reports to conform to any change in date established by federal regulations.

(3) If any corporation is in the hands or under the control of a receiver or other person, by order of a court, the receiver or other person shall make the reports required by this section and by KRS 136.140.

(4) All public service corporations included in KRS 136.120 shall file with the report required by subsection (1) of this section a copy of all reports to their stockholders and a complete copy of their report to the Kentucky regulating authority for the year ending December 31.

(5) The Revenue Cabinet may grant an extension of thirty (30) days to file the public service property tax return when, in its judgment, good cause exists. The cabinet shall keep a record of every extension and the taxpayer shall attach a copy of the approved extension to his return when filed.

(6) A taxpayer may be granted a thirty (30) day extension for filing the public service company property tax return if it requests the extension before the due date of the return and includes with the extension request a report of any increases or decreases in property of fifty thousand dollars ($50,000) or more in any taxing district.

The Committee Amendment No. 1 to **HB 375** is as follows:

Amend printed copy of **HB 375** on page 7, after line 25, by adding the following language:

"Section 5. KRS 136.050 is amended to read as follows:

(1) Except where otherwise specially provided, all corporations required to make reports to the revenue cabinet shall pay all taxes due the state from them into the state treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky board of tax appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following ***April 30*** [~~March 31~~] of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the rate of ten percent (10%) per annum.

Section 6. KRS 136.990 is amended to read as follows:

(1) Any county clerk who fails to comply with the provisions of subsection (2) of KRS 136.020 shall be fined not less than ten dollars ($10) nor more than twenty-five dollars ($25).

(2) Any corporation that fails to pay its taxes, penalty and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(3) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after ***April 30*** [~~March 31~~] of each year.

(4) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(5) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(6) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

(7) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

(9) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (5) to (7) of this section.

(10) If any taxpayer fails to make or file a return as required by KRS 136.090 on or before the due date of the return, then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the cabinet shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, that in no case shall a penalty be less than ten dollars ($10).

(11) If the tax imposed by KRS 136.070, whether assessed by the cabinet or the taxpayer, or any installment or portion of the tax, is not paid on or before the date prescribed for its payment, it shall be collected as a part of the tax, interest upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the cabinet.

Section 7. KRS 143:010 is amended to read as follows:

(1) "Cabinet" means "Revenue Cabinet."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth [~~in this state~~].

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into whereby persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest is the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in section 613 (c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense (whether or not by common carrier) incurred in transporting coal shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value is the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer must compute his tax liability and remit the tax due to the cabinet. The reporting period shall be monthly. However, the cabinet may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading for shipment. "Processing" does not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control exists if a contract or lease, either written or oral, is entered into whereby one party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the cabinet may apportion or allocate the receipts between or among such persons, organizations, or businesses if it determines that such apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter is synonymous with the economic interest ownership required by internal revenue code section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) Transportation expense shall mean:

(a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock or customer provided that the transaction is at arm's length.

(b) The cost incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock, or customer.

(c) The cost incurred in transporting the coal for purpose of marketing.

(d) In no case shall transportation expenses include the cost of acquisition, improvements, or maintenance of real property; the cost of loading or unloading facilities.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold."

HB 358, AN ACT relating to property taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Trucks, tractors and semi-trailers not required to be registered with the local county clerk of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be valued by the Revenue Cabinet for purposes of taxation as of January 1 each year. The cabinet shall fairly divide, allocate, and certify the assessments to each county, city, town, or other taxing district within the state, within or through which the route or system is operated.

(2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value, but the evidence shall be prescribed by Revenue Cabinet policy or regulations.

(3) After ascertaining the portion of valuation of the property attributable to the state, the Revenue Cabinet shall allocate the value of the property among the counties, cities, towns, and other taxing districts. The proportion which the length of line or route operated in each jurisdiction or taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation. Other reasonable evidence shall be considered by the cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

On or before April 15, 1991, and each year thereafter, each person, corporation, partnership or other business association owning or operating trucks, tractors and semi-trailers which are not required to be registered with the local county clerk and whose route or system is partly within this state and partly within another state or states, shall on forms provided by the Revenue Cabinet provide the cabinet with a detailed description of all the property as well as a detailed description of the entire route or system traversed and other information the cabinet may prescribe.

SECTION 3. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall immediately, after fixing the assessed value of the trucks, tractors and semi-trailers, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the cabinet in the manner outlined in Section 1 of this Act shall have thirty (30) days from the date of the cabinet's notice of the tentative assessment in which to protest in the manner provided by KRS 131.110.

(2) The state taxes on the property shall become due thirty (30) days from the date of notice and shall be collected directly by the Revenue Cabinet.

(3) After the expiration of the thirty (30) day protest period, the valuation of any property described in Section 1 of this Act shall immediately be certified to the county clerk of each county in which any property is liable for taxation. The certification shall be filed by each county clerk in his office and the county clerk shall certify to the proper collecting officer of the county, city, town, or taxing district for collection.

Section 4. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, ***railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car*** and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent ***the*** [~~such~~] property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of ***the*** [~~such~~] taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The Revenue Cabinet shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not ***the*** [~~such~~] operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by ***the*** [~~said~~] cabinet, and shall[~~, except as provided in subsection (4) of this section,~~] allocate ***the*** [~~such~~] assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the cabinet pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of ***the*** [~~such~~] assessment date. [~~Provided, however, that~~] In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he

is engaged is merely incidental to his principal business, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the cabinet under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

[~~(4)(a) The Revenue Cabinet shall likewise have sole power to value and assess all the property within the taxing jurisdiction of this Commonwealth of every passenger, sleeping, freight, and private car company, which is hereby defined as any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in or across this state or any part thereof, any kind of railroad car including but not necessarily limited to flat, tank, refrigerator, passenger, or similar type car. The cabinet shall not certify the assessment of the rolling stock of such companies to any county, city, or taxing district, but shall apportion and certify the operating property, other than rolling stock, to the counties, cities, and taxing districts where such property is located. On or before November 1, 1984, and each year thereafter, the Revenue Cabinet shall establish the state tax rate for rolling stock of private car lines based on average tax rate for tangible personal property except motor vehicles, within the Commonwealth subject to state, county, school and applicable city levy. The rolling stock of such companies shall be taxable for state purposes only and shall not be subject to taxation by a county, city, or other taxing district.~~

~~(b) The property of taxpayers within the meaning of paragraph (a) of this subsection shall likewise be classified as operating property, nonoperating tangible property, and nonoperating intangible property. The nonoperating intangible property of the companies within the meaning of this subsection which are within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes at the same rate as the intangible property of nonpublic service taxpayers.~~]

The Committee Amendment No. 1 to **HB 358** is as follows:

Amend printed copy of **HB 358** on page 7, after line 6, by adding the following:

"SECTION 5. KRS 136.030, is amended to read as follows:

(1) The individual stockholders of a corporation shall not be required to list their shares for ad valorem taxation so long as the corporation pays taxes to the state of Kentucky on at least seventy-five percent (75%) of its total property, wherever located, provided, however, that bonds and obligations of the United States of America and its possessions and bonds and obligations of the state of Kentucky, its instrumentalities and its political subdivisions and their instrumentalities shall not be considered in the computation of the total property of the corporation, wherever located, nor in the computation of the amount of property upon which the corporation pays ad valorem taxes to the state of Kentucky. In order to obtain this exemption the stockholder must furnish satisfactory proof to the revenue cabinet that at least seventy-five percent (75%) of the total property of the corporation as hereinabove specified is taxed in the state of Kentucky.

(2) Every corporation organized under the laws of this state, or doing business in this state, whose stock is liable to assessment and taxation under subsection (1) of this section, except banks, trust companies, or combined banks and trust companies doing business in this state and domestic life insurance companies, shall by February 15 of each year make a true and correct report to the revenue cabinet signed by its president, secretary, treasurer or other chief officer, giving the names and addresses of residents of this state who hold its shares of stock and outstanding bonds as of January 1 previous thereto, and also the transfer of any of its stocks or bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(3) For purposes of determining the tax status, under subsection 1 of this Section, of the shareholders of a holding company with subsidiaries subject to the provisions of KRS 136.120(1), the property of the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be property of the holding company, and ad valorem taxes paid to the state of Kentucky by the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be paid by the holding company."

The Committee Amendment No. 2 to **HB 358** is as follows:

Amend printed copy of **HB 358** on page 1, lines 3 and 4, by deleting lines 3 and 4 in their entirety and inserting in lieu thereof the following:

"***(1) Notwithstanding the provisions of KRS 132.487, trucks, tractors, semi-trailers and buses of any***";

line 8, by deleting the word "***valued***" and inserting in lieu thereof the word "***assessed***".

On page 2, line 11, after the word "***tractors***" by adding a comma "***,***";

lines 12 and 13, by deleting lines 12 and 13 in their entirety and inserting in lieu thereof the following:

"***semi-trailers and buses whose route or system is***";

line 23, after the word "***tractors***" by adding a comma "***,***" and deleting the word "***and***"; and

line 24, after the word "***semi-trailers***" and before the comma"***,***" by adding the words "***and buses***".

The Committee on Counties and Special Districts reported **HB 241** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 241, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) He has resided in the county wherein he is appointed to serve for a period of at least two (2) years; this subsection shall apply only to [~~deputy sheriffs,~~] deputy constables[~~,~~] and to special local peace officers appointed pursuant to KRS 61.360;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

The Committee Substitute to **HB 241** is as follows:

HB 241, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) ***If a deputy constable or special local peace office appointed pursuant to KRS 61.360, he has resided in the county wherein he is appointed to serve for a period of at least two (2) years; and if a deputy sheriff, he agrees to reside in the county wherein he is appointed within ninety (90) days of his appointment, and to continue his residence therein during the term of his appointment*** [~~He has resided in the county wherein he is appointed to serve for a period of at least two (2) years; this subsection shall apply only to deputy sheriffs, deputy constables, and to special local peace officers appointed pursuant to KRS 61.360~~];

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

The Committee on Counties and Special Districts reported **HB 238** and **HB 418** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 238, AN ACT relating to libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.125 is amended to read as follows:

As used in KRS 171.130 to 171.306, unless the context requires otherwise:[~~,~~]

(1) "Department" means the Department of Libraries and Archives***;***

(2) "Public library" means a library which is established as the county-wide library system by any of the methods provided by KRS Chapter 173; and

(3) "Library materials" means those print, audiovisual, graphic, cartographic, machine readable, and manuscript materials provided by a library for its users.

Section 2. KRS 171.140 is amended to read as follows:

(1) The department shall give assistance and advice to all [~~school,~~] state institutional[~~, free~~] and public libraries, and to all ***counties*** [~~communities~~] in the state which propose to establish ***public*** libraries, as to the best means of ***their establishment and operation*** [~~establishing and administering them, selecting and cataloging books, and other details of library management,~~] and may send any of its members to aid in organizing such libraries or assist in the improvement of those already established.

(2) It may receive gifts which may be used or held for the purpose given, and may purchase and operate traveling libraries under such conditions and rules as it thinks necessary to protect the interests of the state and best increase the efficiency of its service to the public.

(3) The department may issue printed material, such as lists and circulars of information, and in the publication thereof may cooperate with other state library commissions and libraries, in order to secure the more economical administration of the work for which it was formed. It may ***provide for library educational opportunities*** [~~conduct courses of library instruction and hold librarians' institutes~~] in various parts of the state.

(4) The department shall perform such other service in behalf of public libraries as it considers for the best interests of the state.

(5) The department shall maintain a strong central collection of library materials in a variety of formats and assure access to those materials and to other information resources throughout the state and nation for the purposes of providing information and reference services to state government agencies and of supplementing the resources of local libraries.

Section 3. KRS 171.203 is amended to read as follows:

Any funds appropriated for the purpose of KRS 171.201 to 171.205 shall be expended for aiding in the establishment, extension and development of local public library ***services*** [~~facilities~~] through the purchase, lease or repair of library ***materials*** [~~books~~], equipment, furniture, buildings or bookmobiles and for such other methods and services as will best accomplish the purpose. Funds shall be paid out by the State Treasurer on warrants drawn by the secretary of the Finance and Administration Cabinet on order of the State Librarian.

Section 4. KRS 171.204 is amended to read as follows:

To the extent of funds available, grants may be made to qualifying ***public libraries*** [~~counties~~] based on formulas and regulations designed by the Department of Libraries and Archives or provided as special grants for an approved program. The Department of Libraries and Archives may provide partial grants or loans for constructing county or district library buildings or for improving libraries and library services of all types, through such methods and services as will best accomplish this purpose, and may accept federal funds for these purposes.

Section 5. KRS 171.230 is amended to read as follows:

[~~(1)~~] The provisions of KRS 171.240 to 171.300 shall apply to public libraries ***as defined in Section 1 of this Act.***

[~~(2) Public libraries are libraries which serve all citizens and which are supported in whole or in part with public funds.~~]

Section 6. KRS 171.250 is amended to read as follows:

(1) The board shall grant certificates of librarianship to applicants who are graduates of library schools approved by the board and shall grant certificates to other applicants when it has satisfied itself that the applicant is qualified for library work. ***Applicants shall provide such information as required by the board to determine their qualifications.***

(2) The board may issue renewals, determine the positions for which certificates of librarianship shall be required, and may adopt rules and regulations for its own government and for carrying out the purposes of KRS 171.230 to 171.300.

(3) The board may issue certificates to qualified persons who are serving in libraries not supported from public funds.

(4) Librarians who were in service on May 31, 1938, and served one year prior to such date shall be entitled to receive a life certificate in accordance with their qualifications, without examination, upon the payment of prescribed fee.

Section 7. KRS 171.260 is amended to read as follows:

No library coming under the provisions of KRS 171.230 to 171.300 shall have in its employ, in the position of librarian, or in any other full-time [~~professional~~] library ***service*** position, a person who does not hold ***an appropriate*** [~~a~~] certificate of librarianship issued by the board.

HB 418, AN ACT relating to deceased persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 72.435 is amended to read as follows:

If [~~In the event~~] it is necessary for the coroner to order a body to be transported or exhumed, payment therefor shall be made by the ***Commonwealth*** [~~fiscal court or urban-county government, whichever is appropriate,~~] upon certification by the coroner that the services were rendered.

Section 2. KRS 72.460 is amended to read as follows:

The cost of autopsies shall be paid for by the ***Commonwealth.*** [~~fiscal court; provided, however, that~~] The ***Justice Cabinet*** [~~department for human resources~~], medical examiner program, may contract with pathologists and toxicologists and chemists and ***shall*** pay for ***the*** [~~such~~] autopsies within the budgetary limitations of funds appropriated by the General Assembly for this purpose.

The Committee on Economic Development and Tourism reported **HB 242** with Committee Substitute attached thereto, and **HB 386** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 242, AN ACT relating to the Kentucky Bicentennial.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.390 is amended to read as follows:

The Kentucky Bicentennial Commission shall:

(1) Prepare an overall program to include specific plans for celebrating in 1992 the two hundredth anniversary of Kentucky's admission as the fifteenth state of the United States of America;

(2) Select persons and events to be commemorated. In preparing its plans and programs, the commission shall give consideration to any plans advanced by civic, patriotic, historical or educational groups, and cooperate with them in all possible ways. The commission may designate special committees with representation from such groups to plan and conduct specific programs;

(3) Encourage the location and presentation of books, documents, manuscripts, letters, relics and other materials pertaining to the settlement of Kentucky and its attainment of statehood; [~~and~~]

(4) Prepare on or before November 1, 1987, and each year thereafter, a complete report of the commission's activities and plans for the celebration in 1992***; and***

(5) Establish a bicentennial celebration fund which shall be used by the commission to cover expenses incurred in the bicentennial celebration. The commission shall not use more than two percent (2%) of the total bicentennial celebration fund for the purpose of covering administrative expenses. After July 15, 1990, the commission shall have the authority to borrow an amount of money equal to, but not exceeding, the amount of gross revenue projected by the Transportation Cabinet to be received by the commission from the additional fee in subsection (3) of Section 5 of this Act for the first two (2) quarters of calendar year 1991. The commission may borrow money from the General Fund or from a source appproved by the secretary of the Finance and Administration Cabinet. Any interest accrued by moneys placed in the bicentennial fund shall remain in the fund for use by the commission. After July 15, 1993, any moneys remaining in the fund shall be transferred to a trust and agency fund, established by the Finance and Administration Cabinet and administered by the Kentucky Heritage Council for the purpose of matching Kentucky Humanities Council grants and other similar grants which promote or explore Kentucky's heritage.

Section 2. KRS 186.060 is amended to read as follows:

(1) Applications for registration of motor vehicles owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state or by the state or federal government shall be accompanied by a statement from the head of the department of the governmental unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the governmental unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and the official number plate described in KRS 186.240***(1)(c)***[~~(3)~~], and report the registration to the head of the department authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of fifty cents (50) in each instance, to be paid by the department upon whose authorization such license was issued.

(2) After such registration of any vehicle owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of said vehicle shall be necessary so long as said vehicle is owned exclusively by such governmental unit except in the case of loss or destruction of said license plate. In the event of such loss or destruction, said number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government is transferred or sold to another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by a county, city, urban county, board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or the state or federal government, any license plate that has been issued for use on a motor vehicle owned by such a governmental unit.

Section 3. KRS 186.061 is amended to read as follows:

(1) Applications for registration of motor vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit shall be accompanied by a statement from the chief or assistant chief of the volunteer fire department or unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the volunteer fire department or unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and the official number plate described in KRS 186.240***(1)(c)***[~~(3)~~], and report the registration to the head of the cabinet authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of fifty cents (50) in each instance, to be paid by the volunteer fire department or unit.

(2) After such registration of any vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of said vehicle shall be necessary so long as said vehicle is owned exclusively by such volunteer fire department or unit except in the case of loss or destruction of said license plate. In the event of such loss or destruction, said number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit is transferred or sold to another nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit or another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by any nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, any license plate that has been issued for use on a motor vehicle owned by such a volunteer fire department or unit.

Section 4. KRS 186.174 is amended to read as follows:

(1) Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and rental motor vehicles, for any owner of a motorcycle required to be registered under the provisions of KRS 186.050(2) may, in addition to registration

under KRS 186.050(1) or (3)(a), obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25) is received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, a cashier's check or a money order. The application and the twenty-five dollar ($25) fee is to be forwarded immediately to the transportation cabinet. Personalized plates issued under this section expire December 31 each year.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the cabinet, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner or lessee shall make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an applicant obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application. All personalized license plates issued pursuant to this section after December 31, 1988, shall have the same design as the license plates described by KRS 186.240***(2)***[~~(4)~~].

(3) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a) the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said personalized license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2.00) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue said personalized plate and receive five dollars ($5) and three dollars ($3) for each sidecar attachment.

(5) (a) Upon the sale, transfer or termination of lease of such motor vehicle bearing such personalized plate, the owner or lessee shall remove same and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. This vehicle can then be transferred as provided by KRS Chapter 186.

(b) When said personalized plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1.00) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(7) In the event a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.

(8) The secretary of the transportation cabinet may make such administrative regulations as he deems necessary to further the purposes of this section.

Section 5. KRS 186.240 is amended to read as follows:

(1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and in so doing ***it*** shall:

(a)[~~(1)~~] Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260, provided that the forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county; the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;

(b)[~~(2)~~] Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160; ***and***

(c)[~~(3)~~] Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes which shall contain the registration number, the word "Kentucky" and the name of the county in which the plate is issued or in lieu thereof the words "Official," "Transportation," "Executive," "Farm," or in the case of plates for commercial vehicles, such words or information as the Department of Vehicle Regulation may by regulation provide and the year for which the license is issued if the year is not evidenced as otherwise provided in this chapter; provided, however, no numerals indicating any year shall be placed upon any license plate issued under and in accordance with the provisions of KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and of KRS 186.061, relating to the licensing of vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon such plate if so desired. [~~;~~]

(2)[~~(4)~~] All license plates issued pursuant to KRS 186.050(1) after January 1, 1988, shall conform to the provisions of subsection ***(1)(c)***[~~(3)~~] of this section except that the word "Kentucky" shall be centered above the county name in which the plate is issued, the words "Bluegrass State" shall be centered at the bottom of the plate below the registration number and the name of the county in which the plate is issued shall be centered in the upper portion of the plate above the registration number and below the word "Kentucky." After January 1, 1988, the Transportation Cabinet may provide for the issuance of reflectorized plates for any or all motor vehicles and if reflectorized plates are issued may collect a fee, in addition to the fee set out in KRS 186.050, of fifty cents (50). [~~;~~]

(3) (a) Upon initial application or registration renewal in calendar year 1991, persons registering a motor vehicle according to KRS 186.050(1) and (3)(a) shall receive a "bicentennial" license plate, in lieu of the registration plate described in subsection (2) of this section. Applications shall be accompanied by payment of the regular registration fee. In addition, for use of a bicentennial name, trademark or logo, a fee of two dollars and fifty cents ($2.50) shall be collected at the time of registration each of the two (2) years the plate is issued. The Transportation Cabinet shall receive one dollar and seventy-five cents ($1.75) of the additional fee for all vehicles registered pursuant to this subsection during calendar year 1991 for the purpose of covering the cost of materials and any contractual agreements made with the Corrections Cabinet relating to the bicentennial license plate. The balance of the additional fee collected in 1991 and the entire amount of the additional fee collected in calendar year 1992 shall be credited to the bicentennial celebration fund established in Section 1 of this Act.

(b) The "bicentennial" license plate shall be designed by the bicentennial commission and approved by the Transportation Cabinet and shall be issued for calendar year 1991 and shall expire at the end of the applicant's renewal month in 1993 and shall not be renewable thereafter. At the time of renewal in 1992 and upon payment of eleven dollars fifty cents ($11.50), a two dollar ($2) clerk's fee and the additional fee described in paragraph (a) of this subsection, the clerk shall issue a renewal decal designed by the commission and as approved by the Transportation Cabinet.

(c) The registration plate under this subsection shall be issued for a period of two (2) years, replacing the regular registration plate, and shall be subject to the registration provisions of KRS Chapter 186 the provisions of this section notwithstanding.

(4)[~~(5)~~] The Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn same over to the State Treasurer for the benefit of the state road fund. [~~;~~]

(5)[~~(6)~~] The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071. [~~; and~~]

(6)[~~(7)~~] When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

The Committee Substitute to **HB 242** is as follows:

HB 242, AN ACT relating to the Kentucky Bicentennial.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.390 is amended to read as follows:

The Kentucky Bicentennial Commission shall:

(1) Prepare an overall program to include specific plans for celebrating in 1992 the two hundredth anniversary of Kentucky's admission as the fifteenth state of the United States of America;

(2) Select persons and events to be commemorated. In preparing its plans and programs, the commission shall give consideration to any plans advanced by civic, patriotic, historical or educational groups, and cooperate with them in all possible ways. The commission may designate special committees with representation from such groups to plan and conduct specific programs;

(3) Encourage the location and presentation of books, documents, manuscripts, letters, relics and other materials pertaining to the settlement of Kentucky and its attainment of statehood; [~~and~~]

(4) Prepare on or before November 1, 1987, and each year thereafter, a complete report of the commission's activities and plans for the celebration in 1992*; and*

(5) (a) Establish a bicentennial celebration fund that shall consist of all money appropriated by this state and all money received from the federal government, or any agency thereof or from any other source, for the purpose of implementing the provisions of this Act. Moneys from the bicentennial celebration fund shall be used by the commission to cover the financial obligations of the commission. The commission shall not use more than two percent (2%) of the total bicentennial celebration fund, referred to in subsection (5)(f) of this section, for the purpose of covering administrative expenses.

(b) Each county may establish a local bicentennial board which shall, be approved by the commission, and be responsible for organizing and performing tasks related to Kentucky's bicentennial celebration. If a local board has not been appointed as of July 1, 1991, the county fiscal court shall become responsible for the duties of the local board.

(c) The commission shall make available to each county bicentennial board, an equal share of the fifty percent (50%) of the bicentennial celebration fund, less the cost of the design and production of the "bicentennial" license plates and renewal decals which shall be paid for subject to the provisions of Section 6 of this Act. No funds shall be administered to a local bicentennial board until the board has obtained matching funds equal to the amount being offered by the commission.

(d) Each county bicentennial board shall expend the funds allotted it by subsection (5)(c) of this Section for the following activities and the board shall submit a financial report to the commission, by March 1, 1993, on the expenditure of these funds:

1. Historical preservation;

2. County historical publications;

3. Bicentennial programs, as approved by the bicentennial commission;

4. Tourism projects of historical or cultural significance; or

5. Any building or monument commemorative to the bicentennial celebration.

(e) In addition to the fifty percent (50%) allocation in subsection (5)(c) of this section the commission shall designate ten percent (10%) of the bicentennial celebration fund, to an advertising fund which it shall establish, less the cost of the design and production of the "bicentennial" license plates and renewal decals which shall be paid for subject to the provisions of Section 6 of this Act. The commission shall then participate in a 50/50 matching program with the Tourism Cabinet on an advertising campaign to promote the bicentennial activities throughout the Commonwealth. Participation in this program shall be contingent upon availability of matching funds within the Tourism Cabinet and upon program approval by the commission.

(f) The commission shall use the remaining forty percent (40%) of the fund for the bicentennial celebration, less the cost of the design and production of the "bicentennial" license plates and renewal decals which shall be paid for subject to the provisions of Section 6 of this Act.

(g) Any interest accrued by moneys placed in the bicentennial fund shall remain in the fund for use by the commission. After July 15, 1993, any moneys remaining in the fund shall be transferred to a trust and agency fund, established by the Finance and Administration Cabinet and administered by the Kentucky Heritage Council for the purpose of matching Kentucky Humanities Council grants and other similar grants which promote or explore Kentucky's heritage.

Section 2. KRS 186.060 is amended to read as follows:

(1) Applications for registration of motor vehicles owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state or by the state or federal government shall be accompanied by a statement from the head of the department of the governmental unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the governmental unit. The application and statement

shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and the official number plate described in KRS 186.240***(1)(c)***[~~(3)~~], and report the registration to the head of the department authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of fifty cents (50) in each instance, to be paid by the department upon whose authorization such license was issued.

(2) After such registration of any vehicle owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of said vehicle shall be necessary so long as said vehicle is owned exclusively by such governmental unit except in the case of loss or destruction of said license plate. In the event of such loss or destruction, said number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government is transferred or sold to another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by a county, city, urban county, board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or the state or federal government, any license plate that has been issued for use on a motor vehicle owned by such a governmental unit.

Section 3. KRS 186.061 is amended to read as follows:

(1) Applications for registration of motor vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit shall be accompanied by a statement from the chief or assistant chief of the volunteer fire department or unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the volunteer fire department or unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and the official number plate described in KRS 186.240***(1)(c)***[~~(3)~~], and report the registration to the head of the cabinet authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of fifty cents (50) in each instance, to be paid by the volunteer fire department or unit.

(2) After such registration of any vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of said vehicle shall be necessary so long as said vehicle is owned exclusively by such volunteer fire department or unit except in the case of loss or destruction of said license plate. In the event of such loss or destruction, said number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit is transferred or sold to another nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit or another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by any nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, any license plate that has been issued for use on a motor vehicle owned by such a volunteer fire department or unit.

Section 4. KRS 186.174 is amended to read as follows:

(1) Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and rental motor vehicles, for any owner of a motorcycle required to be registered under the provisions of KRS 186.050(2) may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25) is received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, a cashier's check or a money order. The application and the twenty-five dollar ($25) fee is to be forwarded immediately to the transportation cabinet. Personalized plates issued under this section expire December 31 each year.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the cabinet, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner or lessee shall make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an applicant obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application. All personalized license plates issued pursuant to this section after December 31, 1988, shall have the same design as the license plates described by KRS 186.240***(2)***[~~(4)~~].

(3) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a) the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said personalized license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2.00) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue said personalized plate and receive five dollars ($5) and three dollars ($3) for each sidecar attachment.

(5) (a) Upon the sale, transfer or termination of lease of such motor vehicle bearing such personalized plate, the owner or lessee shall remove same and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. This vehicle can then be transferred as provided by KRS Chapter 186.

(b) When said personalized plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1.00) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(7) In the event a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.

(8) The secretary of the transportation cabinet may make such administrative regulations as he deems necessary to further the purposes of this section.

Section 5. KRS 186.240 is amended to read as follows:

(1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and in so doing ***it*** shall:

(a)[~~(1)~~] Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260, provided that the forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county; the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;

(b)[~~(2)~~] Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160; ***and***

(c)[~~(3)~~] Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes which shall contain the registration number, the word "Kentucky" and the name of the county in which the plate is issued or in lieu thereof the words "Official," "Transportation," "Executive," "Farm," or in the case of plates for commercial vehicles, such words or information as the Department of Vehicle Regulation may by regulation provide and the year for which the license is issued if the year is not evidenced as otherwise provided in this chapter; provided, however, no numerals indicating any year shall be placed upon any license plate issued under and in accordance with the provisions of KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and of KRS 186.061, relating to the licensing of vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon such plate if so desired. [~~;~~]

(2)[~~(4)~~] All license plates issued pursuant to KRS 186.050(1) after January 1, 1988, shall conform to the provisions of subsection ***(1)(c)***[~~(3)~~] of this section except that the word "Kentucky" shall be centered above the county name in which the plate is issued, the words "Bluegrass State" shall be centered at the bottom of the plate below the registration number and the name of the county in which the plate is issued shall be centered in the upper portion of the plate above the registration number and below the word "Kentucky." After January 1, 1988, the Transportation Cabinet may provide for the issuance of reflectorized plates for any or all motor vehicles and if reflectorized plates are issued may collect a fee, in addition to the fee set out in KRS 186.050, of fifty cents (50). [~~;~~]

(3) (a) Upon initial application or registration renewal in calendar year 1991, persons registering a motor vehicle according to KRS 186.050(1) and (3)(a) shall receive a "bicentennial" license plate, in lieu of the registration plate described in subsection (2) of this section. Applications shall be accompanied by payment of the regular registration fee.

(b) The "bicentennial" license plate shall be produced by the Corrections Cabinet from material similar to the material used to produce the license plates issued according to subsection (1)(c) of this section.

(c) The "bicentennial" license plate shall be designed by the bicentennial commission and approved by the Transportation Cabinet and shall be issued for calendar year 1991 and shall expire at the end of the applicant's renewal month in 1993 and shall not be renewable thereafter. At the time of renewal in 1992 and upon payment of the regular registration fee, the clerk shall issue a "bicentennial" renewal decal designed by the commission and as approved by the Transportation Cabinet.

(d) The registration plate under this subsection shall be issued for a period of two (2) years, replacing the regular registration plate, and shall be subject to the registration provisions of KRS Chapter 186 the provisions of this section notwithstanding.

(4)[~~(5)~~] The Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn same over to the State Treasurer for the benefit of the state road fund. [~~;~~]

(5)[~~(6)~~] The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071. [~~; and~~]

(6)[~~(7)~~] When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

Section 6. The provisions of subsections (3)(a) through (3)(d) of Section 5 of this Act shall take effect only if the Kentucky Bicentennial Commission receives an appropriation, during the 1990 General Assembly, of at least four million eight hundred thousand ($4.8 million) dollars in each fiscal year of the upcoming biennium. If the Kentucky Bicentennial Commission receives at least four million eight hundred thousand ($4.8 million) dollars in each fiscal year of the upcoming biennium then the Reviser of Statutes shall codify subsections (3)(a) through (3)(d) of Section 5 of this Act, along with references made to Section 6 of this Act, and if the Kentucky Bicentennial Commission does not receive the required appropriation the Reviser of Statutes shall not codify subsections (3)(a) through (3)(d) of Section 5 of this Act, along with references made to Section 6 of this Act.

HB 386, AN ACT relating to boats and boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.290 is amended to read as follows:

(1) The Division of Water Patrol may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions ***involving more than one hundred (100) boats*** on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. ***When*** [~~Whenever~~] a regatta, motorboat or other boat race, marine parade, tournament or exhibition ***involving more than one hundred (100) boats*** is proposed to be held, the person in charge thereof shall, at least fifteen days prior thereto, file an application with the division for permission to hold ***the*** [~~such~~] regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed

to hold *the* [~~such~~] regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the division in writing.

(2) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

The Committee on Labor and Industry reported **HB 231**, **HB 311**, **HB 372** with Committee Amendment attached thereto, **HB 373** with Committee Amendment attached thereto, **HB 433**, **HB 438**, **HB 487**, **SB 53**, **SB 54**, **SB 56**, **SB 59**, **SB 60**, **SB 61** and **SB 62** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 231, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.090 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of a worker's benefit year. ***However, if an individual lacks sufficient base period wages because of a job-related injury, and he has received or was eligible to receive workers' compensation, upon written application by the claimant an extended base period will be substituted for the current base period on a quarter by quarter basis as needed to establish a valid claim or to increase the benefit rate of a claim if:***

(a) The individual did not earn wages because of a job-related injury for at least seven (7) weeks of each base period quarter to be substituted by an extended base period quarter;

(b) No later than one (1) month prior to the expiration of workers' compensation benefits, the employer or carrier shall inform, orally and in writing, all recipients of their potential eligibility for unemployment insurance, and also provide a statement verifying the individual's eligibility for workers' compensation; and

(c) A claim for unemployment insurance compensation is filed no later than the fourth week of unemployment after the end of the period of injury compensated or eligible to be compensated by workers' compensation.

(2) "Extended base period" means the four (4) quarters prior to the claimant's base period. These four (4) quarters may be substituted for base period quarters on a quarter for quarter basis in order to establish a valid claim or increase the benefit rate of a valid claim regardless of whether the wages have been used to establish a prior claim, except wages earned as a member of the armed forces or wages reportable to another state and transferred under the combined wage agreement will be excluded if used in a prior claim. Employer chargeability shall be determined under KRS 341.530(2), except if this would result in an employer being charged twice for benefit payments based on the same wages, the pooled account will be charged.

(3)[~~(2)~~] "Benefit year" for any worker means the fifty-two (52) week period beginning with the first day of the week with respect to which he first requests a determination which establishes his status as a fully insured worker after the termination of his last preceding benefit year, if any, except that the last preceding benefit year shall be a fifty-three (53) week period if fifty-two (52) weeks would result in the overlapping of any calendar quarter of the base period of the new benefit year with the same calendar quarter of the base period of the previous benefit year. As used in this subsection, a worker shall be considered as having insured status, without regard to any other provision of this chapter, if at the time of his request he has satisfied the conditions required under subsection (5) of KRS 341.350.

(4)[~~(3)~~] "Base-period wages" means the wages paid to a worker during his base period by subject employers for covered employment. The secretary shall, upon request of employe, with respect to this subsection, consider wages payable to mean wages paid, if necessary to make the employe meet the earnings requirement in KRS 341.350 in order to prevent inequities in particular cases.

Section 2. KRS 341.410 is amended to read as follows:

The commissioner acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in subsection ***(3)***[~~(2)~~] of KRS 341.090, the division shall notify all interested parties. If found to be not fully insured the division shall notify the worker. The commissioner may, at any time within a worker's benefit year, make such further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The commission may by regulation prescribe what constitutes a determination as used in this section and subsections (2) and (3) of KRS 341.420.

HB 311, AN ACT relating to labor-management relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The Office of Labor-Management Relations shall, subject to appropriation from the General Assembly or funds made available to the office from any other public or private source, provide grants-in-aid to labor-management relations organizations that include both labor and management representatives. An organization shall use a grant-in-aid for the purpose of improving labor-management relations or improving communications with respect to subjects of mutual interest or concern to labor and management. The office shall not provide a grant-in-aid to any organization which interferes with collective bargaining in any plant or industry. The Office of Labor-Management Relations shall promulgate administrative regulations necessary to carry out this Act.

HB 372, AN ACT relating to labor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner, or any person authorized to act in his behalf, shall initiate enforcement of civil penalties imposed in KRS Chapters 336, 337, and 339.

(2) Any civil penalty imposed pursuant to KRS Chapter 336, 337, or 339 may be compromised by the commissioner or his designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the commissioner, or his designated representative, shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, the number of times the person charged has been cited, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation.

Section 2. KRS 336.990 is amended to read as follows:

(1) Upon proof that any person employed by the department as a labor inspector has taken any part in any strike, lockout or similar labor dispute, he shall forfeit his office.

(2) ***The following civil penalties shall be imposed, in accordance with the provisions in Section 1 of this Act, for violations of the provisions of this chapter:***

(a) Any person who violates KRS 336.110 shall for each offense be ***assessed a civil penalty of*** [~~fined~~] not less than ***one hundred dollars ($100)*** [~~twenty-five dollars ($25.00)~~] nor more than one ***thousand*** [~~hundred~~] dollars ***($1,000)*** [~~($100) or imprisoned for not more than fifty (50) days, or both~~].

(b)[~~(3)~~] Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be ***assessed a civil penalty of*** [~~fined~~] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense.

(c)[~~(4)~~] Any employer who violates the provisions of KRS 336.220 shall be ***assessed a civil penalty of*** [~~fined~~] not ***less*** [~~more~~] than one hundred dollars ($100) ***nor more than one thousand dollars ($1,000)*** for each violation.

Section 3. KRS 337.990 is amended to read as follows:

The following civil penalities shall be imposed, in accordance with the provisions in Section 1 of this Act, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership or corporation that violates KRS 337.020 shall be ***assessed a civil penalty of*** [~~fined~~] not less than ***one hundred dollars ($100)*** [~~twenty-five dollars ($25.00)~~] nor more than one ***thousand dollars ($1,000)*** [~~hundred dollars ($100)~~] for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be ***assessed a civil penalty of*** [~~fined~~] not less than ***one hundred dollars ($100)*** [~~twenty-five dollars ($25.00)~~] nor more than ***one thousand dollars ($1,000)*** [~~two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both~~].

(3) ***Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.***

(4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall also be liable to the affected employee for the amount withheld plus interest at the rate of ten percent (10%) per annum [~~Any person who violates KRS 337.060 shall be fined not more than three hundred dollars ($300) or imprisoned for not more than sixty (60) days, or both~~].

(5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation.

(6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and each day that the failure continues shall be deemed a separate offense.

(7)[~~(4)~~] Any employer who violates any provision of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any [~~such~~] record, or refuses to make any [~~such~~] record or transcription thereof accessible to the commissioner or his authorized representative shall ***be assessed a civil penalty of***[~~, upon conviction therefor be fined~~] not less than one hundred dollars ($100) nor more than ***one thousand dollars ($1,000)*** [~~five hundred dollars ($500)~~].

(8)[~~(5)~~] Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto ***shall be assessed a civil penalty of***[~~, shall, upon conviction therefor, be fined~~] not less than one hundred dollars ($100) nor more than ***one thousand dollars ($1,000)*** [~~five hundred dollars ($500)~~].

(9)[~~(6)~~] Any employer who discharges or in any other manner discriminates against any employee because ***the*** [~~such~~] employee has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because ***the*** [~~such~~] employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because ***the*** [~~such~~] employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405 and shall ***be assessed a civil penalty of***[~~, upon conviction therefor, be fined~~] not less than one hundred dollars ($100) nor more than ***one thousand dollars ($1,000)*** [~~five hundred dollars ($500)~~].

(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11)[~~(7)~~] Any person who violates KRS 337.530 shall be ***assessed a civil penalty of*** [~~fined~~] not ***less*** [~~more~~] than one hundred dollars ($100) ***nor more than one thousand dollars ($1,000).***

(12)[~~(8)~~] Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be ***assessed a civil penalty of*** [~~fined~~] not ***less*** [~~more~~] than one hundred dollars ($100) ***nor more than one thousand dollars ($1,000)*** for each offense, and ***the*** [~~said~~] contractor or subcontractor shall make full restitution to all employees to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(13)[~~(9)~~] Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 or 337.550 shall be ***assessed a civil penalty of*** [~~fined~~] not ***less*** [~~more~~] than one hundred dollars ($100) ***nor more than one thousand dollars ($1,000)*** for each offense. Each day of violation shall constitute a separate offense. ***If*** [~~Where~~] a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and ***the*** [~~such~~] failure results in damages, injury or loss to any person, ***the*** [~~such~~] public authority, public official, or member of a public authority may be held liable [~~therefor~~] in a civil action.

(14) A person shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more

than one thousand dollars ($1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:

(a) Made any complaint to his employer, the commissioner, or any other person; or

(b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or

(c) Testified, or is about to testify, in any such proceedings

[~~(10) Any person who fails to comply with KRS 337.070 shall be fined not less than ten dollars ($10.00), nor more than one hundred dollars ($100) for each offense and each day that such failure continues shall be deemed a separate offense.~~

~~(11) Any employer who violates the provisions of KRS 337.065 shall be fined not less than fifty dollars ($50.00) or more than five hundred dollars ($500) for each offense and shall make full payment to the employee by reason of said violation~~].

Section 4. KRS 339.990 is amended to read as follows:

Anyone who [~~Whoever~~] employs or permits or suffers any minor to be employed or to work in violation of KRS 339.210 to 339.450, or of any order or ruling issued under the provisions thereof, or obstructs the Department of Workplace Standards, its officers, or agents, or any other person authorized to inspect places of employment under KRS 339.210 to 339.450, or ***anyone who*** [~~whoever~~], having under his control or custody any minor, permits or suffers him to be employed or to work in violation of KRS 339.210 to 339.450, or who sells to a minor any article with the knowledge that the minor intends to sell ***the*** [~~said~~] article in violation of KRS 339.210 to 339.450 shall be ***assessed a civil penalty, in accordance with the provisions of Section 1 of this Act, of*** [~~fined~~] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). Every employer who continues to employ a minor in violation of KRS 339.210 to 339.450 after he has been notified by the Department of Workplace Standards, its officers or agents, shall be ***assessed a civil penalty, in accordance with the provisions of Section 1 of this Act, of*** [~~fined~~] one hundred dollars ($100) for each day the violation continues and the employment of any minor in violation of KRS 339.210 to 339.450 shall with respect to each minor so employed constitute a separate and distinct offense.

Section 5. KRS 337.420 is amended to read as follows:

(1) "Employee" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

(2) "Employer" means a person who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~].

(4) "Employ" includes to suffer or permit to work.

(5) "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment.

(6) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of labor.

(7) "Person" includes one (1) or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Section 6. KRS 337.423 is amended to read as follows:

(1) No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, ***shall*** [~~are~~] not ***be included*** within this prohibition. [~~provided, however, that~~] Nothing in KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and

337.990(14) [~~337.992~~] and when ***the*** [~~said~~] employer files with the commissioner of the Department of Workplace Standards a statement that ***the*** [~~said~~] employer is covered by the federal Fair Labor Standards Act of 1938, as amended.

(2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] shall not, in order to comply with it, reduce the wage rates of any employee.

(3) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~].

(4) No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~].

Section 7. KRS 337.425 is amended to read as follows:

(1) For this purpose, the commissioner, or his authorized representative, ***may*** [~~shall have power to~~] enter the place of employment of any employer to inspect and copy payrolls and other employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain [~~such~~] other information [~~as is reasonably~~] necessary to the administration and enforcement of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~].

(2) The commissioner or his authorized representative ***may*** [~~shall have power to~~] examine witnesses under oath, and [~~to~~] require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~]. ***If*** [~~In the event of the failure of~~] a person ***fails*** to attend, testify or produce documents under or in response to a subpoena, the circuit court in the judicial circuit ***where*** [~~wherein~~] the hearing is being held, on application of the commissioner or his representative, may issue an order requiring ***the*** [~~said~~] person to appear before the commissioner or his authorized representative, or to produce documentary evidence, and any failure to obey ***the*** [~~such~~] order of the court may be punished by the court as [~~a~~] contempt [~~thereof~~].

(3) The commissioner ***may*** [~~is authorized to~~] endeavor to eliminate pay practices unlawful under KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] by informal methods of conference, conciliation and persuasion, and [~~to~~] supervise the payment of wages owing to any employee under KRS 337.420 to 337.433 and 337.990(14) [~~337.992~~].

(4) The commissioner ***may*** [~~shall have power to~~] issue [~~such~~] regulations not inconsistent with the purpose of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~], [~~as he deems~~] necessary or appropriate to carry out its provisions.

Section 8. KRS 337.427 is amended to read as follows:

(1) Any employer who violates the provisions of KRS 337.423 shall be liable to the employee or employees affected in the amount of their unpaid wages, and in instances of wilful violation in employee suits under subsection (2) of this section, up to an additional equal amount as liquidated damages.

(2) Action to recover ***the*** [~~such~~] liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. The court in ***the*** [~~such~~] action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(3) ***An*** [~~No~~] agreement by any [~~such~~] employee to work for less than the wage to which ***the*** [~~such~~] employee is entitled under KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] shall ***not*** be a bar to any such action, or to a voluntary wage restitution of the full amount due under KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~].

(4) At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~], the commissioner may bring any legal action necessary in behalf of the employee to collect ***the*** [~~such~~] claim for unpaid wages. The commissioner shall not be required to pay the filing fee, or other costs, in connection with ***the*** [~~such~~] action. The commissioner shall have power to join various claims against the employer in one (1) cause of action.

(5) In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~].

(6) The commissioner ***may*** [~~shall~~] on his own motion [~~have power to~~] petition any court of competent jurisdiction to restrain violations of KRS 337.423, and [~~to~~] petition for such affirmative relief as the court

may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~].

Section 9. KRS 337.430 is amended to read as follows:

Court action under KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] may be commenced no later than six (6) months after the cause of action occurs.

Section 10. KRS 337.433 is amended to read as follows:

Every person subject to KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] shall keep an abstract or copy of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] posted in a conspicuous place in or about the premises ***where*** [~~wherein~~] any employee is employed. Employers shall be furnished copies or abstracts of KRS 337.420 to 337.433 and ***337.990(14)*** [~~337.992~~] by the state on request without charge.

Section 11. The following KRS sections are repealed:

337.991 Penalty.

337.992 Penalties.

337.993 Penalties.

The Committee Amendment No. 1 to **HB 372** is as follows:

Amend printed copy of **HB 372** on page 1, between lines 16 and 17, by adding the following new subsection:

"***(3) If a civil penalty is imposed pursuant to this section, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the commissioner, or any person authorized to act in his behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.***" and

On page 12, line 19, by underlining "***337.990 (14)***".

HB 373, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

Any employer who violates KRS 337.200 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

The Committee Amendment No. 1 to **HB 373** is as follows:

Amend printed copy of **HB 373** on page 1, line 5, after the "." by adding the following new language:

"***Each day that the employer violates KRS 337.200 shall constitute a separate offense and penalty***"

HB 433, AN ACT relating to elevators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.420 is amended to read as follows:

(1) The department shall administer all aspects of the state elevator inspection program.

(2) The program shall be directed by a person with at least five (5) years' experience in the inspection or construction, installation, maintenance, and repair of elevators and their appurtenances.

(3) The commissioner of housing, buildings and construction may appoint and hire ***general inspectors of elevators*** from the holders of certificates of competency [~~no more than five (5) general inspectors of elevators~~].

HB 438, AN ACT relating to plumbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.040 is amended to read as follows:

(1) An applicant for a master or journeyman plumber's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be of good moral character;

(c) Be a citizen of the United States or have filed with the United States district court "first papers" for United States citizenship; and

(d) Possess all the other qualifications that may be prescribed by ***administrative*** [~~rules and~~] regulations of the commissioner.

(2) Except as otherwise provided in this chapter, no master or journeyman plumber's license shall be issued except upon a successful passage of an examination as prescribed by the department.

(3) Examinations for a license as a master plumber or journeyman plumber shall be conducted at [~~such~~] times and places [~~as may be~~] fixed by the regulations of the commissioner. Applicants for an examination shall furnish ***the*** [~~such~~] information [~~as may be~~] required by the commissioner and shall receive from the department due notice of the time and place of the examination.

(4) The department shall prepare or cause to be prepared under its supervision examinations consisting of written and practical tests with such questions and tests ***by which*** [~~as in the discretion of~~] the department will determine:

(a) With respect to master plumber's license applicants, that [~~such~~] applicants are qualified in view of the definitions, provisions, and purposes of this chapter to carry on responsibly, reasonably, and competently, the activities which a licensed master plumber is authorized to engage in by this chapter; and

(b) With respect to journeyman plumber's license applicants, their knowledge and competency to carry on the activities which a licensed journeyman plumber is authorized to engage in by this chapter.

(5) The examination papers shall be preserved by the department for a period of one (1) year.

(6) The department may issue a license to any person who holds a valid license in another state if that state has a statewide plumbing code and, in the opinion of the plumbing code committee, the other state's examination is at least equal to that of Kentucky and the other state agrees to reciprocate with Kentucky.

HB 487, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust shall be paid as follows:

(a) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, [~~and no respiratory impairment~~] resulting from exposure to coal dust***, which is validated by two (2) x-rays and reports of the x-rays which conform to the standards for x-rays contained in subsection (2) of KRS 342.316*** [~~based upon spirometric testing values of eighty percent (80%) or more of the predicted normal values contained in the chapter on the respiratory system in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association~~], he shall award a one time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by fifty percent (50%) and shall be payable for a period not to exceed two hundred and eight (208) weeks. The one time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040, by the employee while he continues to work in the mining industry. The retraining incentive benefit may be collected in a lump sum when the employee leaves his hazardous employment in the mining industry if the parties agree and the agreement is approved by the administrative law judge. [~~To file a claim under this paragraph a claimant may elect, in lieu of any other method or procedure, to be examined by a physician named by the board and paid for by the employer.~~] Based upon this examination the administrative law judge may make appropriate findings and enter an award if indicated. [~~A claimant or employer aggrieved by a decision of the administrative law judge shall have forty-five (45) days to file an appeal to the board as provided by KRS 342.285.~~]

(b) If the administrative law judge finds that an employee has a radiographic classification of category

1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee has an occupational disability rating of seventy-five percent (75%) resulting from exposure to coal dust and the administrative law judge shall award an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage multiplied by the disability rating of seventy-five (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred and twenty-five (425) weeks.

(c) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the Guides to the Evaluation of Permanent Impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits which shall be equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(d) If the administrative law judge finds that an employee has occupational pneumoconiosis with a radiographic classification of category 2/1, 2/2, 2/3, 3/2, 3/3 or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to such occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

Section 2. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employee was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time, except as otherwise provided in paragraph (a) of subsection (10) of this section; and

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, except that the time of the beginning of retraining incentive benefits awarded under KRS 342.732 shall be the date the award for such benefits by the administrative law judge becomes final.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur;

(b) ***Except as provided in paragraph (d) of this subsection,*** the procedure with respect to filing of claims shall be as follows:

1. a. The application shall set forth the complete work history of the applicant with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The reports shall be made by duly licensed physicians. Within one hundred and eighty (180) days following October 26, 1987, the board shall promulgate administrative regulations which prescribe the format of the medical reports required herein and the manner in which such reports shall be completed.

b. For coal-related occupational pneumoconiosis claims, each clinical examination shall include chest x-ray examinations and spirometric tests.

c. For other compensable occupational pneumoconiosis claims, each clinical examination shall include x-ray examinations and appropriate pulmonary function tests.

2. To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust, shall comply with accepted medical standards as follows:

a. Chest x-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the x-ray and the name and social security number of the claimant. Physicians' reports of x-ray interpretations shall: identify the claimant by name and social security number; include the date of the x-ray and the date of the report; classify the x-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

b. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and the 1978 ATS epidemiology standardization project. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

3. The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of subsection (2)(b) of this section. The board shall periodically review the applicability of the spirometric test values contained in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

(c) ***Except as provided in paragraph (d) of this subsection,*** the procedure with respect to the determination of claims shall be as follows:

1. Immediately upon receipt of said application for adjustment of claim, the commissioner shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim;

2. Upon receipt of notice of the claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. Within thirty (30) days of any such examination, the claimant or his representative shall be furnished a copy of said medical report by the party requesting such report. Also, the employer,

the special fund, or any other party to the claim shall have the right to have the claimant evaluated by vocational experts or institutions, at their expense, including a reasonable sum for travel. Within thirty (30) days of any such examination, the claimant or his representative, shall be furnished a copy of said vocational report by the party requesting such report; and

3. Within sixty (60) days of the receipt of the claim, the employer, the special fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall set a date for a pre-hearing conference and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the Workers' Compensation Board shall be followed. Upon request of an interested party and a showing of good cause, the administrative law judge may extend, one time, the time period for filing a notice of resistance as prescribed in this subparagraph, provided said extension shall not exceed thirty (30) days.

(d) For claims filed under subsection (1)(a) of KRS 342.732, the procedure shall be as follows:

1. For retraining incentive benefits under KRS 342.732, the claimant shall file two (2) x-rays and the reports thereof which shall conform to the standard for x-rays contained herein.

2. The commissioner shall notify the affected employee of such claim and shall furnish him with a full and complete copy of the claim.

3. Within sixty (60) days of the receipt of the claim, the employer shall notify the commissioner and the claimant whether or not the claim will be resisted. If the claim is not resisted, an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall notify the affected employee thereof. In litigated claims, the regular procedures prescribed by the Workers' Compensation Board shall be followed.

(3) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the Workers' Compensation Board within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the Workers' Compensation Board within three (3) years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employee and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the Workers' Compensation Board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income or retraining incentive benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section.

(5) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(6) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written

inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(7) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(8) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the administrative law judge when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(9) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(10) (a) Except as provided in paragraph (c) of this subsection, the employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employee was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent (75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid pursuant to KRS 342.120 and under such regulations as the board may provide for such purpose; and

(b) In all claims for compensation partially payable by the special fund, the Director of the Division of the Special Fund shall be designated as codefendant.

(c) The employer in whose employment the employee was last exposed to he hazard of the disease shall alone be liable for payment of retraining incentive benefits awarded under KRS 342.732.

Section 3. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For total disability, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during such disability.

(b) For permanent, partial disability, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "guides to the evaluation of permanent impairment," American Medical Association, 1977 edition, or by his percentage of disability as determined under KRS 342.0011(11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) When an employee, who has sustained disability compensable under this ***chapter*** [~~section~~], and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both such a widow or widower and such a child or children, to such widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of such benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no such widow or widower but such a child or children, then to such child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of such benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if such proportioned benefits remain unpaid, to be paid in a lump sum.

SB 53, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Injury" means any work-related harmful change in the human organism, arising out of and in the course of employment, including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting such disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this section shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employe. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employes covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims under the direction and supervision of the Workers' Compensation Board.

(10) "Board" means the Workers' Compensation Board.

(11) "Disability" means a decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employee is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employee's general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with such farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States" when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger and surface mining sites, all activities performed at tipple or processing plants that clean, break, size or treat coal and all activities performed at coal loading facilities for trucks, railroads and barges. Severance or processing of coal shall not include acts performed by a final consumer if such acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether such acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be considered wholly engaged in the severence or processing of coal for the purpose of this chapter. Provided however, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof.

(25) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the Workers' Compensation Board using generally accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The board shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each such claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim ***plus the cost of medical and vocational rehabilitation paid to date and projected to be paid***. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of such claims using the adjusted weekly benefit shall then be calculated by the board. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The board shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from board records and from the records of the division of unemployment insurance. The board shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The board shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll, calculated using board records and division of unemployment insurance data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987 through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve-month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the board which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on such lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the board pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured such risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection, except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

(26) "SIC code" as used in this chapter means the standard industrial classification code contained in the latest edition of the standard industrial classification manual published by the federal office of management and budget.

SB 54, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter an owner or owners of a business, including qualified partners of a partnership owning a business, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if such owner, owners, or qualified partners elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of such owners or partners to provide coverage for their employees and non-qualified partners, if any, required under this chapter.

(2) When an owner, owners or qualified partners have elected to be included as employees, such shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" means a partner who has entered into a meaningful partnership agreement which shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership and that the partner has made some contribution to the partnership which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership.

(4) For the purposes of this section, "non-qualified partner" means a person who has entered into a partnership agreement which shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership; that the person will not participate in the decision-making of the partnership and will not participate in the profits and losses of the business engaged in by the partnership.

(5) Every partnership filing a partnership agreement for the purpose of exemption pursuant to the provisions of KRS 342.340, shall, on or before April 15 of each year, file with the board the partnership identification number assigned to the partnership by the Internal Revenue Service, and shall also file a copy of the tax return of the partnership. Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement filed with the board is composed of "non-qualified partners" as defined in this section, and the board shall promptly notify interested government agencies of the failure of the filed partnership agreement to provide exemption of the partnership from the provisions of KRS 342.340. With particular reference to employers engaged in coal mining, the board shall promptly report the failure to comply with the provisions of this subsection to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

SB 56, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no compensation shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case compensation shall be allowed from the first day of disability. All compensation shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid. In no event shall income benefits be instituted later than the 15th day after the employer has knowledge of the disability or death. Benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the board of such termination or failure to make payments and the board shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.

(2) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

(3) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

SB 59, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.340 is amended to read as follows:

(1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some corporation, association or organization authorized to transact the business of workmen's compensation insurance in this state or shall furnish to the board satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case the board shall require the deposit of an acceptable security, indemnity or bond to secure to such an extent as the board directs the payment of compensation liabilities as they are incurred.

(2) Every employer subject to this chapter shall file, or have filed on its behalf, with the Workers' Compensation Board, as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. Every employer who has complied with the foregoing provision and has subsequently cancelled its insurance or its membership in an approved group self-insurance association, as the case may be, shall immediately notify, or have notice given on its behalf to the Workers' Compensation Board of such cancellation, the date thereof and the reasons therefore; and every insurance carrier or group self-insurance association shall in like manner notify the Workers' Compensation Board upon the cancellation, ***lapse, termination, expiration by reason of termination of policy period, or nonrenewal*** of any policy issued by it or ***termination of*** any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or group self-insurance association need not set forth its reasons ***therefor*** [~~for cancellation~~] unless requested by the Workers' Compensation Board. The above filings are to be made on the forms prescribed by the board. ***Termination*** [~~Cancellation~~] of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of such ***notification*** [~~cancellation~~] by the Workers' Compensation Board unless the employer has obtained other insurance and the Workers' Compensation Board is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions the board shall promptly notify interested government agencies of said failure and with particular reference to employers engaged in coal mining the board shall promptly report any such failures to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

SB 60, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.350 is amended to read as follows:

(1) In order to comply with KRS 342.340 groups of employers may form, either among themselves or with employers in other states, mutual insurance associations or reciprocal or interinsurance exchanges subject to the insurance laws of this state and such reasonable conditions and restrictions not inconsistent therewith as may be fixed by the board. Membership in such mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

(2) The board may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make such deposit with a bank or trust company of this state as shall in either case be approved by the board for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars ($100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance, shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make such a deposit with a bank or trust company of this state for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(4) In addition, the board, under rules and regulations as it shall prescribe, may permit ***eleven (11)***

[~~two (2)~~] or more employers to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. Employers securing certification as group self-insurers are regulated by the rules and regulations drawn by the Workers' Compensation Board and are not to be in any way subject to the provisions of subsections (1), (2), and (3) of this section; provided, however, that the Governor may assign the regulatory authority under this subsection to another board or agency pursuant to KRS 42.005.

SB 61, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment. [~~To this end there is hereby created a rehabilitation panel which shall be composed of the commissioner and specialists in medical and vocational rehabilitation to be appointed by the board.~~]

(2) The ***board*** [~~panel~~] shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. The board [~~in consultation with the panel,~~] shall approve as qualified such facilities, institutions and physicians as are capable of rendering competent rehabilitation service to seriously injured employes. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the board.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, [~~and after affording the parties an opportunity to be heard by the panel,~~] the administrative law judge[~~, in consultation with the panel,~~] may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service the administrative law judge may deem necessary, be provided at the expense of the defendants. Vocational rehabilitation training, treatment or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging or travel shall be paid for by the defendants.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The board [~~and the rehabilitation panel~~] shall cooperate on a reciprocal basis with the Kentucky Office of Rehabilitation of the Department of Education and the Department of Employment Services of the Kentucky Cabinet for Human Resources. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Office of Vocational Rehabilitation or Department for Employment Services following the defendant's refusal to provide such services, the ***administrative law judge*** [~~board~~], after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the defendants as apportioned in the award.

(7) The board shall, by July 1, 1988, promulgate administrative regulations to effectuate the provisions of this section. The administrative regulations shall ensure early intervention; prompt and cost-efficient delivery of rehabilitation services and vigorous monitoring of qualified rehabilitation providers, facilities and agencies.

SB 62, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For total disability, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during such disability.

(b) For permanent, partial disability, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "guides to the evaluation of permanent impairment," American Medical Association, ***latest*** [~~1977~~] edition ***available***, or by his percentage of disability as determined under KRS 342.0011(11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) When an employee, who has sustained disability compensable under this section, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both such a widow or widower and such a child or children, to such widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of such benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no such widow or widower but such a child or children, then to such child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of such benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if such proportioned benefits remain unpaid, to be paid in a lump sum.

The Committee on Elections and Constitutional Amendments reported **HB 14**, **SB 47** with Committee Substitute attached thereto, and **SB 117** with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 14, AN ACT relating to the conduct of elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) [~~A presidential preference primary shall be held on the date established by KRS 118.561. All other~~] Primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 2. KRS 118.561 is amended to read as follows:

(1) On the ***first Tuesday after the fourth Monday in May*** [~~second Tuesday in March~~], in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections[~~, except that the entire cost of a presidential preference primary shall be paid by the state~~].

SB 47, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.243 is amended to read as follows:

(1) In addition to the other duties and powers of the Attorney General, he shall enforce all of the state's election laws by civil or criminal processes.

(2) The Attorney General shall:

(a) Devise and administer programs to observe the conduct of elections;

(b) Hold public hearings;

(c) Establish a toll-free telephone service for the purpose of receiving reports of election law violations. The service shall be operated during regular business hours throughout the year and during the hours which any poll in the state is open on the day of any primary, special election or regular election;

(d) Initiate investigations or investigate alleged violations of election laws at the request of a registered voter or on his own motion;

(e) Issue subpoenas for the production of any books, papers, correspondence, memoranda or other records, and compel the attendance of witnesses that he deems relevant to the purposes of any investigation;

(f) Present evidence of alleged violations to a grand jury; and

(g) File appropriate complaints in any court of competent jurisdiction.

(3) (a) The Attorney General shall be required to begin an independent inquiry for any potential irregularities that may have occurred in each election in not fewer than five percent (5%) of Kentucky's counties, to be selected at random in a public process, within twenty (20) days following each primary or regular election. ***No county shall be subject to inquiry under this subsection in two (2) consecutive elections***.

(b) The Attorney General shall report his findings to the grand jury of each county involved and to the chief circuit judge for the circuit in which the county is located.

(4) When the Registry of Election Finance concludes there is probable cause to believe a violation of election laws has occurred, it shall forward the matter to the Attorney General for prosecution. In the event the Attorney General or local prosecutor fails to prosecute the matter in a timely fashion, the registry's attorney may petition the Circuit Court to be appointed as a special prosecutor. Upon such motion timely filed, for good cause shown, the court shall enter an order to that effect.

(5) When requested by the Attorney General, all state and local agencies and officials, including the Auditor of Public Accounts, Commonwealth's attorneys, county attorneys, Registry of Election Finance, state police, sheriffs' departments and local police shall give all possible assistance to the Attorney General in the performance of his duties.

Section 2. KRS 116.025 is amended to read as follows:

(1) Every person[~~, male or female,~~] who is a resident of this state and [~~has resided in~~] the precinct in which he offers to vote ***on or before the day preceding the closing of the registration books for any primary,*** general [~~thirty (30) days next preceding the day of any regular~~] or special election, who possesses on the day of any election the qualifications set forth in Section 145 of the Constitution, exclusive of the durational residency requirements, who is not disqualified under that section or under any other statute, and who is registered as provided in this chapter, may vote for all officers to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote. Any person who shall have been convicted of any election law offense which is a felony shall not be permitted to vote until his civil rights have been restored by executive pardon.

(2) ***Any person*** [~~Persons~~] charged with or indicted for a crime, whether or not in custody for same, who ***has*** [~~have~~] not yet been convicted of the [~~said~~] offense and who ***is*** [~~are~~] not otherwise ineligible to vote, may vote for all offices to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote.

(3) A registered voter who moves ***while the registration books are closed for*** [~~less than thirty (30) days before~~] an election and is not permitted to register at his new residence may vote at his former residence, either in person or by absentee ***ballot*** [~~vote~~].

Section 3. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) [~~Except during implementation of the initial statewide registration,~~] The county ***clerk*** [~~board of elections~~] shall cause all registration to be closed the ***fourth Tuesday preceding through the first Monday*** [~~thirty (30) days prior to, and the five (5) days~~] following, any primary or general election, and the ***twenty-eight (28) days prior to and seven (7) days following*** [~~ten (10) days prior to~~] any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed; except that, registration shall be closed only in those precincts in which the election is held. ***During the period that registration is closed, the county clerk shall accept no registrations or changes in registration except those received by mail or completed on election day at the polls and delivered to the clerk by the precinct election officers.***

(3) In all counties, the county clerk shall receive registration, transfers, or change of party affiliation at branch offices at any place in the county during those periods that the registration books are open. However, notice in the manner provided by KRS Chapter 424 ***shall*** [~~must~~] be given at least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice ***shall*** [~~must~~] be given to the county executive committee of each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation in any of the following ways:

(a) In person;

(b) By mail;

(c) By means of the federal post card application, if the person is a resident of Kentucky and a member of the armed forces, or a dependent of members of the armed forces***, or overseas citizen***; or

(d) By [~~such~~] other methods of registration, or reregistration, [~~as~~] approved by the State Board of Elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county ***clerk*** [~~board of elections~~], which may include door to door canvassing.

(5) Upon receipt of the form prescribed by the State Board of Elections, properly filled out and signed by the applicant, the county clerk shall register the applicant.

(6) Any individual or group shall have access to a reasonable number of voter registration forms in the county clerk's office. ***The*** [~~Such~~] individual or group shall ***act under the proper supervision and directions of the county clerk and shall*** return these completed forms to the county clerk for official registration by the county clerk.

(7) The county clerk shall provide voter registration cards which shall be made available where motor vehicle license plates are issued. ***The*** [~~Such~~] cards shall be displayed in plain view and notice of their availability posted prominently. Personnel who issue [~~such~~] licenses may offer a voter registration card. The completed forms shall be returned by the applicant either in person or by mail to the county clerk for official registration.

Section 4. KRS 116.046 is amended to read as follows:

(1) The county clerk shall provide voter registration forms to each principal or assistant principal of every public high school, each area vocational school, and upon request, private schools, who shall designate a person in each school who shall be responsible for informing students and school personnel of the availability of the registration forms and assist them in properly registering [~~with the party of their choice~~]. The completed forms shall be returned to the county clerk, for official registration by the county clerk.

(2) ***Any person designated to assist in registration in subsection (1) of this section shall fulfill this responsibility in an impartial and fair manner and shall not recruit a registrant for any particular party. Any person who knowingly and willfully violates the provisions of this subsection shall be guilty of a Class A misdemeanor.***

(3) The State Board ***for Elementary and Secondary*** [~~of~~] Education shall implement programs of public education regarding elections, voting procedures, and election fraud, which shall include an audio-visual presentation for high school juniors and seniors. The State Board ***for Elementary and Secondary*** [~~of~~] Education, after consultation with the State Board of Elections, shall update the public education programs required by this section as relevant statutory changes occur, as different types of voting machines are used, or as more effective methods of presentation shall be developed.

Section 5. KRS 116.055 is amended to read as follows:

[~~(1)~~] Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party at the time of the preceding regular election, or, in the case of new registrations not involving a change of political affiliation made after the preceding regular election, have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races.

[~~(2) In order to determine a voter's qualifications in case of doubt, one (1) of the judges of election shall swear the person as to any of the qualifications, and when so sworn the clerk shall write upon the voter's registration card the words, "sworn as to qualification."~~]

Section 6. KRS 116.085 is amended to read as follows:

(1) When a voter changes his place of residence [~~from one precinct~~] to another ***location*** within the county, the clerk shall, upon application of the voter in person or by mail, transfer the voter's registration record to the proper precinct.

(2) When the boundaries of a precinct are changed by law, placing a registered voter in a new or different precinct, the clerk shall automatically transfer the voter's registration record to the proper precinct and mail the voter a notice of the change.

(3) ***A voter who has changed his name may indicate the change at the precinct on election day by completing the form provided for this purpose by the State Board of Elections. The form shall be returned by the precinct officer to the county clerk who shall make the necessary change on the voter's registration record.*** [~~Any voter who changes his name shall indicate the change at the precinct on election day by signing an oath, in duplicate, on forms supplied by the state board, indicating the change. The oath shall be returned by the precinct officer to the county clerk, who shall retain the original oath for his records and send the duplicate to the state board.~~]

(4) ***The county clerk may petition the State Board of Elections for approval of a plan by which the clerk may make changes in voter addresses based upon the clerk's own knowledge of the change. If a voter's address is changed through a plan approved under this subsection, the clerk shall transfer the voter's registration record to the proper precinct and shall, within ten (10) days of the transfer, mail to the voter a notice of the address change which shall include the name and voting location of the voter's new precinct.*** [~~The clerk shall notify the state board of elections by the tenth of each month of all transfers of registration made by him, during the preceding month; and the clerk shall, within three (3) days following the closing of registration prior to an election, report all changes made since the previous report was filed.~~]

Section 7. KRS 116.095 is amended to read as follows:

The county clerk shall permit any citizen, at all reasonable hours, to inspect or make copies of any registration record, without any fee. He shall, upon request, furnish to any person a copy of the registration records, for which he ***may charge necessary duplicating costs not to exceed fifty cents ($.50) per page*** [~~shall receive the fee provided in KRS 116.105~~].

Section 8. KRS 116.112 is amended to read as follows:

(1) The state Board of Elections shall establish by administrative regulation a schedule to conduct a purge of ineligible and deceased voters in every even-numbered year beginning with the fiscal year which begins July 1, 1990. The purge shall be conducted as set forth in this section***, or by use of the United States Postal Service Address Information System (AIS)***.

(2) The State Board of Elections shall send to each registered voter, by first class mail, a notice of voter registration. The notice shall contain:

(a) The name of the voter; ***and***

(b) The voter's precinct[~~; and~~

~~(c) The location of the voter's polling place~~].

(3) The notice shall provide that it is not forwardable and shall be returned to the State Board of Elections if undeliverable.

(4) If the notice is returned by the postal service with information that the voter has moved or may otherwise be ineligible to vote, the State Board of Elections shall forthwith mail to the voter who has moved a notice of intention to remove the voter's name from the voter registration list. This notice shall be forwardable ***and shall give the voter thirty (30) days to protest that he remains eligible to vote and should not be removed from the registration rolls. The expiration of this thirty (30) day notice shall not fall during a period when the registration books are closed for any primary or general election. The State Board of Elections' purgation notice shall contain a change of address form addressed to the county clerk of the county where the voter resides upon which the voter may request that his voter registration be transferred to his new address in the county or may request a hearing before the county board of elections to protest that he remains eligible to vote. Immediately upon mailing of the notices to a county, the State Board of Elections shall forward to the county clerk a list of all voters in the county to whom purgation notices were sent.***

(5) If the voter requests a change of address, in person or in writing, with the county clerk before the end of the thirty (30) day notice period, or if the voter files a protest before the end of the thirty (30) day notice period, he shall not be removed from the registration rolls of the county. All protests against removal shall be heard at the regular monthly meeting of the county board of elections next following the day upon which the thirty (30) day notice period expires.

(6) At the expiration of the thirty (30) day notice period, the county clerk shall remove from the registration rolls the names of all voters submitted to him by the State Board of Elections except those voters who have transferred their voter registration to their current residence address or who have filed a protest to be heard by the county board of elections.

[~~(5) If the voter notifies the State Board of Elections prior to the election that he remains eligible to vote within the county, his name shall not be removed from the voter registration list. However, if no satisfactory explanation is obtained, the voter's name shall be removed from the voter registration roll.~~]

Section 9. KRS 116.113 is amended to read as follows:

(1) Upon receipt of notification from the Cabinet for Human Resources of the death of a person, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains***, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election***.

(2) Upon receipt of notification from the circuit clerk that a person has been declared incompetent, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains***, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election***.

(3) Upon receipt of notification from the Administrative Office of the Courts that a person has been convicted of a felony offense, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains***, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election***.

(4) Following the purge of a name from the records of the State Board of Elections, the state board [~~of elections~~] shall notify the clerk of the county in which the voter lived of the action; and the county clerk shall within ten (10) days update the county voter registration files to reflect the necessary change. If a protest is filed by the voter, the county board shall hear it at its next regular monthly meeting. If the county board decides in favor of the protesting voter, ***the voter's registration record shall be restored, including his voting record. If the protest is filed while the registration books are closed and the county board decides in favor of the protesting voter, the county board shall issue the voter an "Authorization to Vote" for the upcoming election and the voter's record shall be restored when the registration books open following the election*** [~~his name shall not be purged, and the state board shall be notified of the action~~].

Section 10. KRS 116.125 is amended to read as follows:

(1) In addition to the biennial purge required by KRS 116.112, the county board of elections may, upon information known to it or furnished to it by any citizen, ***purge*** [~~delete~~] from the county ***registration rolls*** [~~register~~] the name of any voter who is no longer properly registered [~~and notify the voter by mail of its action~~]. ***Before purgation shall take place, the county board of elections shall mail to the voter a notice of intent to purge his name in thirty (30) days if no protest is filed by the voter. The end of the thirty (30) day protest period shall not fall within the time when the registration rolls are closed for any primary or general election. At the end of the thirty (30) days, if no protest has been filed, the county board of elections shall submit to the county clerk the name or names of voters to be purged and the clerk shall remove the name or names from the registration rolls of the county. If a protest is filed, the county board shall hear the matter at its next regular monthly meeting and the protesting voter's name shall not be removed from the registration rolls until the hearing is held.***

(2) If the hearing is held during the period when the registration books are closed and the board determines that the voter is not properly registered, the county board shall submit the name of the voter to the county clerk for purgation when the registration books open immediately following an election. The board shall also provide notice to the election officers in the precinct where the voter's name appears on the precinct roster that the board has ruled the voter ineligible to vote and shall not be permitted to vote unless the circuit court issues an order to that effect.

(3) All forms pertaining to the notice of purgation and the notice to the precinct election officers relative to ineligible voters shall be prescribed by the State Board of Elections [~~If no protest is filed by the voter within thirty (30) days, his name shall be purged. If a protest is filed, the county board shall hear the matter at its next regular monthly meeting and either retain or purge the voter's name. If any name is purged, the county board shall inform the state board of its action.~~

~~(2) If the name of any voter is purged from the county register as provided by subsection (1) of this section at such time that the registration period is closed for a particular election, and if the voter contends that actual notice of the deletion of his name from the register was not received, such voter shall be allowed to vote as provided by KRS 117.245~~].

Section 11. KRS 116.155 is amended to read as follows:

All forms pertaining to registration [~~and purgation~~] shall be prescribed and furnished by the State Board of Elections. The registration form shall include the voter's name; date of birth; Social Security number, if any; ***mailing and residence addresses, if different and telephone number*** [~~address~~]; and such other information as the State Board of Elections may deem necessary. No person [~~who fails to include his Social Security number~~] shall be denied the right to register because of ***the failure to include his Social Security number or telephone number*** [~~such failure~~]. All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 12. KRS 117.025 is amended to read as follows:

(1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including [~~such~~] legal counsel as [~~is~~] deemed necessary by the board.

(3) The [~~state~~] board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

[~~(b) Delete the name of any voter whose name is included in those purged by a county board of elections by reason of death and furnished to it by the county boards of elections. It shall further delete the name of any voter who is deceased or who is no longer qualified to vote in the precinct where currently registered~~

~~as may be provided by law, or who has failed to vote at any primary or regular election for four (4) consecutive years. Such names shall be deleted between the dates of the general and primary elections. The State Board of Elections shall notify the county boards of elections and the voter of such action and the reason therefor, by the tenth (10th) of the month following such action, except when the voter was purged by reason of death;~~

~~(e) Enter names on the various registration rosters as they are reported by the county boards of elections;~~]

(b)[~~(d)~~] ***For each primary election,*** furnish each county clerk with a master list of all registered voters in the county, together with three (3) ***signature rosters*** [~~lists~~] of all registered voters in each precinct of the county ***according to party affiliation, and two (2) lists of all registered voters in each precinct of the county*** at least five (5) days prior to each ***primary*** election;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d)[~~(e)~~] Maintain all information furnished to the [~~state~~] board relating to the inclusion or deletion of names from the rosters for four (4) years;

(e)[~~(f)~~] Furnish, ***at a reasonable price,*** the state central executive committee of each political party [~~at a reasonable cost~~] qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f)[~~(g)~~] Purchase, lease or contract for the use of [~~such~~] equipment [~~as may be~~] necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;

(g)[~~(h)~~] Secure information from any source which may assist the board in carrying out the purposes of this section;

(h)[~~(i)~~] Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable ***price.*** [~~cost, provided, however~~] The board shall not furnish precinct lists to persons who intend to use ***the*** [~~such~~] lists for commercial use.

Section 13. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the State Board of Elections, administer the election laws and the registration and purgation of voters within the county.

(2) The board shall consist of the county clerk, the sheriff and two (2) members appointed by the State Board of Elections not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed.[~~; provided, that~~] The first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976. ***The sheriff shall not serve on the board during any year in which he is a candidate, but shall recommend to the board a temporary replacement to serve in his place, subject to approval by the board. The county clerk may, at his option, continue to serve on the board during a year in which he is a candidate. If the clerk elects not to serve, he shall recommend a temporary replacement to serve in his place, subject to approval by the board. If the board rejects a replacement recommended by the sheriff or the county clerk, a new name shall be recommended until a temporary appointment is approved by the board*** [~~Where from any cause the county clerk or sheriff cannot act, the two (2) appointed members shall appoint a commissioner to serve during the period the county clerk or sheriff is ineligible. If the two (2) appointed members cannot agree on a substitute to function in place of the clerk or sheriff who becomes disqualified, such fact shall be certified to the state board within five (5) days and the board shall immediately appoint a person to serve during the period that such officer is ineligible~~]. Service on the board of elections shall be compatible with the holding of any other county office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, [~~not a candidate to be voted for at the elections~~] and shall not have been convicted of any election law offense. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two (2) political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party, shall be the one (1) authorized to submit the lists. Appointees may be removed by the State Board of Elections for cause. ***If*** [~~Where from any cause~~] an appointee is temporarily unable to act, a temporary appointee shall be named by the

State Board of Elections. A temporary appointee shall serve until [~~such time as~~] the original appointee notifies the State Board of Elections that he is able to resume his term. Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his predecessor. Compensation and payment of actual expenses of members shall be set by the fiscal court ***either as an amount payable on an annual basis, or as an amount payable on a per diem basis of*** [~~at~~] not less than fifteen dollars ($15) ***nor more than one hundred dollars ($100)*** [~~per day~~] for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and ***may*** [~~is authorized to~~] make to the election officers such certifications as may be necessary. On ***election*** [~~said~~] days, appeals may be made to a circuit judge***, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.***

(5) In counties containing cities of the first and second class, the board ***may*** [~~shall~~] employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 14. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall ***in the manner prescribed by this section***, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election[~~, who shall hold their offices for one (1) year and until their successors are appointed~~]. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. ***Officers appointed may not be excused from serving except for reasons of illness, emergency, or failure to qualify according to standards established by this section.***

(2) ***Not later than September 20, 1990, the county board of elections shall determine if it shall retain the precinct election officers who have served the previous year. Vacancies created as a result of this determination shall be filled according to the process prescribed in subsections (3) to (7) of this section. Future vacancies shall be filled in the same manner.***

(3) The precinct officers required by subsection (1) of this section shall be selected from a list of volunteers developed by the county clerk and submitted to the county board of elections on or before September 15 of each year. The list of volunteers shall be compiled through the use of volunteer forms developed by the State Board of Elections. The volunteer forms shall be available at the polls on election days and at all times in the office of the county clerk. The State Board of Elections shall prescribe the form, but it shall include information which advises persons signing it of their duty to serve in all elections held in the county during the year, the reasons for which excuse from service is permitted and the penalty for failure to serve without excuse from the county board of elections.

(4) At the same time the county clerk causes sample ballots to be published pursuant to KRS 424.290, the clerk shall also publish a notice advising the public that solicitation is being conducted for volunteers to serve as precinct officers. The notice shall advise the public of the responsibilities of precinct officers, as well as the locations where volunteer cards are available.

(5) The volunteer cards submitted to the county clerk shall be segregated according to party affiliation and precinct. The county board of elections shall determine the qualifications of each volunteer as prescribed by the State Board of Elections through administrative regulation. The county board of elections shall select by lot not more than two (2) precinct officers from each party from among the qualified volunteers for each precinct. Volunteer forms shall be retained on file in the office of the county clerk for three (3) years. If there is an insufficient number of qualified volunteers for each precinct, the county board shall make emergency appointments as provided in subsection (8) of this section.

(6) Once a volunteer has been selected to serve as a precinct officer and has received his training, he shall continue to serve until he is no longer qualified to serve or until he gives the county board thirty (30) days' notice that he no longer wishes to serve.

(7) The State Board of Elections shall be responsible for the fair and efficient administration of the volunteer selection process and shall, through administrative regulations, develop policies and procedures necessary for the administration of the volunteer program. [~~The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct;~~] except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each county political party chairman of the duties of the party.

(4) If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party.]

(8)[~~(5)~~] ***If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.***

(9) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems ***the*** [~~such~~] action is necessary.

(10)[~~(6)~~] The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the [~~state~~] board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(11)[~~(7)~~] An election officer shall be a qualified voter of the precinct***,***[~~;~~] except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister or child of a candidate who is to be voted for at the election. ***An election officer shall not have changed his voter registration party affiliation for two (2) years prior to his appointment.*** An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor***, except for emergency appointments made as provided in subsection (6) of this section.***

(12)[~~(8)~~] If the county board of elections fails to appoint election officers, or if any [~~such~~] officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(13)[~~(9)~~] Each election officer shall be paid a minimum of fifteen dollars ($15) per day, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding ***the*** [~~said~~] election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering election returns, the ***two judges*** [~~sheriff and the judge of the opposite political party from the sheriff~~] shall receive in addition ten cents (10) for each mile necessarily traveled from the place of voting to and from the place of delivery, ***or a flat fee if the fee equals or exceeds that amount calculated at ten cents (10) per mile. The fee paid to the two (2) judges for delivering election returns shall*** [~~to~~] be paid by the county.

Section 15. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction,

and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election ***and prior to the close of normal business hours***, he shall present to the clerk by mail or in person his ***application for an absentee ballot containing a*** verified statement that his inability to appear is due to age, infirmity, or illness[~~, and indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one~~]. Upon receipt of the ***application*** [~~verified statement~~], the clerk shall immediately mail to the voter ***an absentee*** [~~a special~~] ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. ***The*** [~~Such~~] ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished ***pursuant*** [~~subsequent~~] to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 16. KRS 117.077 is amended to read as follows:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for ***an absentee*** [~~a special~~] ballot. ***The*** [~~Such~~] application shall state that the emergency condition occurred within the seven (7) day period and ***shall*** [~~must~~] be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or [~~dependent~~] children of the voter. If the voter has no spouse, parents or [~~dependent~~] children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue ***an absentee*** [~~a special~~] ballot.

Section 17. KRS 117.085 is amended to read as follows:

(1) All requests for an application for ***an absentee*** [~~a special~~] ballot and all applications for ***an absentee*** [~~a special~~] ballot shall be transmitted only by mail or in person as specifically provided by this section. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no ***absentee*** [~~special~~] ballots shall be mailed to an address within the county except to those voters who regularly work outside the county during all hours the office of the county clerk is open. ***In the case of ballots returned by mail,*** the county clerk shall provide ***an absentee***[~~, but only by the method provided by this section, a special~~] ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for ***an absentee*** [~~a special~~] ballot as provided in this section and who is properly registered as stated in his application. Application for ***an absentee*** [~~a special~~] ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the [~~said~~] crime may, at any time not less than ***the close of normal business hours*** seven (7) days before the election, make application in person or by mail to the county clerk for ***an absentee*** [~~a special~~] ballot. [~~A single application shall entitle a voter who qualifies to receive two (2) ballots, as provided by this section, to receive both such ballots.~~] All requests for an application for ***an absentee*** [~~a special~~] ballot and all applications for ***an absentee*** [~~a special~~] ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for ***an absentee*** [~~a special~~] ballot to the voter who appears in person to request ***the*** [~~such~~] application, or shall mail ***the*** [~~such~~] application to a voter who requests ***the*** [~~such~~] application by mail. ***The*** [~~Such~~] application shall be restricted to use of the voter or the spouse, parents or [~~dependent~~] children of the voter; and

(b) Residents of Kentucky who are members of the armed forces, or dependents of members of the armed forces ***and overseas citizens***, may apply for an absentee ballot by means of the federal post-card application. ***The application*** [~~Such applications~~] may be used to register, re-register and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to ***the*** [~~such~~] application form upon receipt.

(c) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote by absentee ballot. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. The applications shall be restricted to the use of the voter only.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for ***an absentee*** [~~a special~~] ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application ***and qualifies to receive an absentee ballot***, he shall mail to the voter ***an absentee*** [~~a special~~] ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and ***it*** [~~same~~] shall be stamped by the postal service when the ballots are mailed.

(4) Absentee [~~(a) Except as otherwise provided by this subsection, Special~~] ballots which are requested prior to the printing of ***the*** [~~such~~] ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of ***the printed*** [~~such~~] ballots; and ***absentee*** [~~special~~] ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of ***the*** [~~such~~] request[~~;~~

~~(b) At any general election at which names of candidates to federal office shall appear on the ballot, certain voters shall be mailed only one (1) ballot, which shall include the names of all candidates for which such voters are entitled to vote. Voters to receive only one (1) ballot shall be those voters who shall be:~~

~~1. Outside the fifty (50) states on the day of the election but whose request for a special ballot shall be received subsequent to the printing of the ballot containing the names of all candidates for which such voters are entitled to vote; and~~

~~2. Within the fifty (50) states on the day of the election; and~~

~~(c) At any general election for which separate ballots shall be printed for candidates for election to federal office, voters who shall be outside the fifty (50) states on the day of the election and who request a special ballot prior to the printing of the ballot containing the names of candidates exclusive of candidates to federal office, shall receive two (2) ballots. The first ballot shall contain the names of candidates to federal office, and the second shall contain the names of all candidates for which the voter is entitled to vote, exclusive of candidates to federal offices~~].

(5)[~~(4)~~] The clerk shall cause ballots to be printed ***fifty (50) days prior to*** [~~for~~] each primary or general election[~~:~~

~~(a) Each primary, fifty (50) days prior to the primary;~~

~~(b) Each general election:~~

~~1. Names of candidates to federal office and no others, fifty (50) days prior to the election;~~

~~2. Names of the remaining candidates, thirty-eight (38) days prior to the election; and~~

~~3. Names of all candidates, thirty-eight (38) days prior to the election~~].

(6)[~~(5)~~] The outer envelope shall bear the words "***Absentee*** [~~Special~~] Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7)[~~(6)~~] Any person who has received ***an absentee*** [~~a special~~] ballot but who knows at least seven (7) days before the date of the election that he shall be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his ***absentee*** [~~special~~] ballot and vote in person. He shall return his ***absentee*** [~~special~~] ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the ***absentee*** [~~special~~] ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent ***absentee*** [~~special~~] ballots, and the voter may vote in the precinct in which he is properly registered.

Section 18. KRS 117.086 is amended to read as follows:

(1) The voter ***returning his absentee*** [~~utilizing a special~~] ballot ***by mail*** shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who shall be absent from the county on election day, but who does not qualify to receive ***an absentee*** [~~a special~~] ballot by mail under the provisions of KRS 117.085 ***and all members of county boards of elections and precinct election officers qualified to vote by absentee ballot under the provisions of KRS 117.085, shall vote***[~~, may execute a special ballot~~] at the main office of the county clerk prior to the day of election. ***The clerk may provide for such voting by absentee ballot or may use the voting equipment in general use in the county either at the precinct or the equipment as may be used to tabulate absentee ballots, except as follows:***

(a) Any voter qualifying to vote in the clerk's office as provided by this subsection who receives assistance to vote shall use the typed inner and outer envelopes as required in subsection (1) of this section.

(b) Any voter qualifying to vote in the clerk's office as provided by this subsection whose qualifications are challenged by any clerk or deputy shall vote in the manner required in subsection (1) of this section and shall complete an "Oath of Voter" affidavit which shall be inserted in the outer envelope along with the inner envelope.

(3) If the clerk uses general voting equipment or absentee ballot tabulating equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office shall sign an "Absentee Ballot Signature Roster."

(4) The [~~county~~] clerk shall designate a location within his office where the ballots shall be cast secretly. In counties containing a city of the first or second class, the county clerk may establish locations other than his main office in which ***the*** [~~such~~] voters may execute ***their*** [~~special~~] ballots.[~~, provided that~~] Public notice of the locations ***shall be*** [~~is~~] given pursuant to KRS Chapter 424 and [~~that~~] similar notice by mail ***shall be*** [~~is~~] given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5)[~~(3)~~] The State Board of Elections shall ***promulgate*** [~~issue~~] administrative regulations to provide for casting ballots as provided in subsection (2) of this section.

(6)[~~(4)~~] The clerk shall deposit all of the returned ***absentee*** ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central ***absentee*** [~~special~~] ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. ***All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.***

(7)[~~(5)~~] The clerk shall keep a list of all persons who return their ***mail*** [~~voted~~] ballots ***or cast their ballots in the clerk's office***[~~,~~] and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of ***absentee*** [~~special~~] ballots cast in any election as a part of the official returns of the election.

Section 19. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent basis, any person voting by means of a special ballot as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) Any person who assists another person in voting by use of ***an absentee*** [~~a special~~] ballot shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all ***absentee*** [~~special~~] ballots shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the attorney general.

Section 20. KRS 117.0865 is amended to read as follows:

Any person who aids another in completing ***an absentee*** [~~a special~~] ballot shall not solicit or encourage that person to vote for or against any candidate, party, or issue. ***Any person who violates this section shall be guilty of a Class D felony.***

Section 21. KRS 117.087 is amended to read as follows:

(1) The challenge of ***an absentee*** [~~a special~~] ballot ***shall*** [~~must~~] be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the ***absentee*** [~~special~~] ballots. The board may appoint a central ***absentee*** [~~special~~] ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board ***shall*** [~~may~~] meet at the clerk's office to count the ***absentee*** [~~special~~] ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of ***absentee*** [~~special~~] ballots. The board shall open the boxes containing ***absentee*** [~~special~~] ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned ***absentee*** [~~special~~] ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of ***the*** [~~such~~] voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall [~~then~~] remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter is read aloud by the chairman, the vote of ***the*** [~~such~~] voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge [~~thereto~~] may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person,[~~;~~] but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the ***inner*** [~~outer~~] envelope shall not be opened, ***but returned to the outer envelope upon which*** [~~and~~] the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken [~~so as~~] to redistribute the ballots in the box. The board shall [~~then~~] open the ballot box, remove the ***absentee*** [~~special~~] ballots from the inner envelopes, ***and*** count ***the ballots*** [~~and record the special ballot votes on a form provided by the state board~~].

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office as provided for in KRS 117.086 and a total of all absentee ballots shall be made and recorded on the form provided by the State Board of Elections.

(7)[~~(6)~~] The county board of elections shall make public the ***absentee*** [~~special~~] ballot results after 6:00 p.m.

Section 22. KRS 117.145 is amended to read as follows:

(1) At least ***fifteen (15)*** [~~two (2)~~] days before any special election, and at least fifty (50) days before any primary ***or*** [~~, and at least thirty-eight (38) days before any~~] regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of [~~special~~] paper ***absentee*** ballots. The ***absentee*** [~~special~~] ballot shall be used for voting by absent voters; ***by precinct officers who have been assigned to a precinct other than their own; by members of a county board of elections;*** by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all ***absentee*** [~~special~~] ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election, the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary of the Finance and Administration Cabinet.

Section 23. KRS 117.195 is amended to read as follows:

(1) At least one (1) hour prior to the opening of the polls, the county clerk shall deliver each machine, with the operating device and mechanism and the device covering the registering counters securely locked, to the clerk of the precinct in which it is to be used, and shall take a receipt [~~therefor~~] indicating the distinguishing number of the machine. The clerk of the precinct shall cause the machine to be arranged in the voting place ***so*** [~~in such a manner~~] that the front of the machine, on which appear the ballot labels and the operating devices, will not be visible, when being operated, to any person other than the voter.

(2) ***In polling places in which machines for multiple precincts are located, the county clerk shall post a sign near each machine identifying the precinct for which the machine has been designated.***

(3) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall, at least one hour prior to the opening of the polls, deliver a sufficient number of ballots for the registered voters of each precinct, a sufficient number of voting booths for voting paper ballots, string, rubber stamps for marking "Spoiled" and "Unused" ballots and a locked ballot box for each precinct. The county clerk shall take a receipt for the number of ballots issued and the ballot box for each precinct. The county clerk shall retain the keys to all ballot boxes.

Section 24. KRS 117.205 is amended to read as follows:

Before permitting any person to vote on the day of the election, the election officers shall examine the machine to ascertain whether it has been operated since the counters referred to in subsection (10) and (11) of KRS 117.125 were set at zero, and to ascertain whether the ballot labels are arranged as specified on the printed instruction cards. If the machine indicates that it has been operated or if the ballot labels are not so arranged, the officers shall not unlock the operating device or mechanism, but shall immediately secure the attendance of ***the county clerk and*** one (1) ***member*** [~~or all of the members~~] of the county board of elections ***other than the county clerk***, who shall reset ***the*** [~~said~~] counters at zero and [~~then~~] relock the device covering the counters, or properly arrange the ballot labels, as the case may be, in the presence of the election officers. If the attendance of [~~such~~] members of the board of elections cannot be obtained before the opening of the polls or within one (1) hour thereafter, the election officers shall notify the county clerk of the foregoing facts and obtain from the county clerk a reserve voting machine, and [~~thereafter~~] proceed to conduct the election. Any reserve machine [~~so used~~] shall ***have been certified*** [~~be prepared~~] for use at the election by the county board of elections and ***prepared for use at the election by*** the election officers in ***the*** [~~such~~] precinct in the same manner as the original machine was prepared for the election [~~by the county clerk~~]. The machine found to have been so operated shall be returned immediately to the custody of the county clerk, whose duty it shall be to promptly repair same in order that it may be used as a reserve machine in the election if needed.

Section 25. KRS 117.215 is amended to read as follows:

(1) If, during the conduct of an election, a machine becomes in a state of disrepair so that it cannot be operated in a manner that will comply with the provisions of this chapter, the election officers shall lock or seal the machine in such a manner as to prevent further voting thereon and record the numbers shown by the public counter. Then the election officers shall secure from the county clerk a reserve voting machine, which shall be prepared and made ready for use as provided in KRS 117.205, and thereupon proceed to conduct the election. When the polls are closed both the original and reserve voting machines shall be examined and the votes thereon registered shall be counted as provided in KRS 117.275 and the aggregate number of votes cast on both machines for each candidate and on each question shall be certified as the result of the election in that precinct.

(2) If an emergency should arise due to the malfunction of the voting machine, the county clerk shall provide a backup voting machine or ***supplemental paper*** [~~special~~] ballots for use at the precinct and a ballot box in which to deposit the voted ballots. The ballot box shall be locked with two (2) locks and the judges of the precinct shall each hold the key to one (1) lock. At the close of voting, the ballots shall be counted at the precinct or a central counting center and added to the votes cast by machine. The aggregate of these votes shall be certified as the result of the election in that precinct.

Section 26. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering [~~or exit polling~~] at the polling place or within a distance of

five hundred (500) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a county wide basis a greater distance from the polling place within which electioneering may be permitted, but in no case shall electioneering [~~or exit polling~~] be allowed within five hundred (500) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. [~~Any person conducting exit polls on election day shall register with the county clerk not less than seven (7) days before the day of the election. The clerk shall give the exit poller a document showing that he has registered, and the exit poller shall carry that document with him at the polls on election day.~~] Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) The election sheriff, under the supervision of the precinct election judges, shall enforce the election laws and maintain law and order at the polls and within fifty (50) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

Section 27. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. All persons assisting a voter shall execute the voter assistance form.

(3) Upon making and filing with the judges ***the*** [~~such~~] oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall [~~then~~], in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of that employer, an officer or agent of that voter's union, or a candidate shall not assist the voter, nor shall a person assist more than two (2) voters on the date of any primary***,*** [~~or~~] regular or special election.

(4) The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall [~~then~~] enter the voting booth and the one [~~so~~] sworn shall operate the machine for the disabled or blind voter as he directs.

(5) Voters who require assistance on a permanent basis due to blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the ***county clerk who shall enter such certification on the voter's registration record. The*** State Board of Elections[~~, which~~] shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance permanently without signing voter assistance forms at the precinct.

(6) Voting booth shall mean an area in which a voter casts his vote which is designed ***to insure*** [~~in such a manner that~~] the secrecy of the vote [~~is insured~~]. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance[~~, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance~~].

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall [~~so~~] adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) [~~In elections for President and Vice President, if a voter is eligible to vote only for the office of president and vice president, a judge of the election shall adjust the machine so that the voter will only be able to vote for President and Vice President.~~

~~(12)~~] If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall [~~then~~] be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12)[~~(13)~~] The election sheriff shall be responsible for reporting violations of this section.

Section 28. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any person whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any voter utilizing ***an absentee*** [~~a special~~] ballot may write in a vote for any person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Two (2) election officers of opposing parties shall upon the request of any voter instruct such voter on how to cast a write-in vote.

(3) This provision does not apply to elections for President and Vice President of the United States where the vote is cast for presidential electors rather than the candidate, nor does it apply to elections for municipal offices conducted pursuant to KRS 83A.170.

Section 29. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any [~~such~~] precinct, any candidate and any representatives to witness and check the count of the votes therein, who are [~~hereby~~] authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever***,*** [~~or~~] mechanism ***or other device*** of the ***voting equipment*** [~~machine~~] so that the voting and counting mechanism will be prevented from operation, and they shall [~~then~~] sign a certificate stating:

(a) That the machine has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting ***equipment*** [~~machine~~], which certificate shall be returned by the judges of election to the officials authorized by law to receive ***it*** [~~the same~~]. The judges shall [~~then~~] compare the number of voters, as shown by the counter of the ***voting equipment*** [~~machine~~], with the number of those who have voted as shown by the protective or accumulative counter or device***, if any***.

(3) ***Where voting equipment is used which does not print the candidates' names, lever numbers and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be:*** the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall [~~then~~] make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the ***counters*** [~~same~~], giving full view of all the counter numbers. The judges shall, under the scrutiny of ***the*** [~~such~~] representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall

be signed by the ***election officers*** [~~judges~~]. The total votes cast for each candidate, and for and against each question, [~~and the votes written in,~~] shall [~~then~~] be entered on the general and quadruplicate return sheets and statement. [~~There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.~~] ***The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.***

(4) [~~The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election.~~] If any ***officer*** [~~judge~~] shall decline to sign ***the*** [~~such~~] return, he shall state his reason [~~therefor~~] in writing, and a copy thereof, signed by him, shall be enclosed with ***the*** [~~such~~] return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the ***officers*** [~~judges~~] shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and ***the write-in roll, if any write-in votes were cast in the precinct*** [~~precinct list~~], shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. ***The*** [~~Said~~] envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes ***and write-in votes,*** the county board shall [~~immediately~~] mail the tabulation ***sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver*** [~~result, the general return sheets and~~] the precinct lists from each precinct to the State Board of Elections.

(5) As soon as possible after the completion of the count, the ***two (2) judges*** [~~election officers~~] shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The ***two (2) judges*** [~~sheriff and the judge from the opposite political party from the sheriff~~] shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in [~~such~~] a manner [~~as~~] to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 30. KRS 117.365 is amended to read as follows:

Upon the first day a grand jury convenes after a primary, general election or special election, the county clerk shall present to the grand jury all voter assistance forms and all applications for ***absentee*** [~~special~~] ballots which shall have been completed in the immediately preceding primary, general election or special election.

Section 31. KRS 117.375 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Electronic or electromechanical voting system" means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment.

(2) "Automatic tabulating equipment" means apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results.

(3) "Voting device" means either an apparatus in which paper ballots or ballot cards are used in connection with an implement by which a voter registers his votes with ink or other substance or by punching, or an apparatus by which such votes are registered electronically, so that in either case the votes so registered may be computed and tabulated by means of automatic tabulating equipment.

(4) "Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.

(5) "Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.

(6) "Ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, [~~a special ballot,~~] or a supplemental paper ballot which has been authorized for the use of voters in any primary, general or special election by the Secretary of State or the county clerk.

(7) "Voting punch device" means an apparatus in which ballots or ballot cards are inserted for the piercing of ballots by the voter. The hole may be in the form of a round dot, rectangle, square, or any other shape that will clearly indicate the intent of the voter.

(8) "Vote marking device" means any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

(9) "Secrecy envelope" means the envelope handed to the voter with his ballot into which the voter shall place his voted ballot cards.

(10) "Precinct ballot counter" means an automatic tabulating device used at the precinct to tabulate and process ballots.

(11) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting and recording his votes in an election.

Section 32. KRS 117.377 is amended to read as follows:

(1) The fiscal court of any county, or any urban county government, may acquire by purchase or lease or lease-purchase agreement or abandon any voting system covered by this chapter, ***if the*** [~~provided such~~] equipment has been approved by the State Board of Elections. The fiscal court shall notify the State Board of Elections that a new voting system is being installed in the county.

(2) The county ***clerk*** [~~board of elections~~] of any county may petition the State Board of Elections to allow a new voting system in the county if an emergency exists. The petition must state the reasons why the present equipment is inadequate. Within sixty (60) days of the receipt of the petition the State Board of Elections shall notify the county ***clerk*** [~~board of elections~~] whether the permission to obtain a new voting system is ***granted*** [~~approved~~] or ***denied*** [~~disapproved~~]. The letter of approval ***shall*** [~~must~~] be presented to the fiscal court for its approval before any new voting system is acquired.

Section 33. KRS 117.995 is amended to read as follows:

(1) ***Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years*** [~~Any person who violates any provision of this chapter, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted,~~

~~shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both~~].

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for ***absentee*** [~~special~~] ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) nor more than five (5) years~~].

(3) Any officer who willfully [~~or neglectfully~~] fails to prepare or furnish ballot labels or ***absentee*** [~~special~~] ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for each offense, and in addition thereto may be confined in the county jail for not less than sixty (60) days nor more than six (6) months~~].

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(5) Any person who signs a name other than his own on an application for ***an absentee*** [~~a special~~] ballot or on the verification form for ***the*** [~~such~~] ballot, or any person who votes ***an absentee*** [~~a special~~] ballot other than the one (1) issued in his name, or any person who applies for ***the*** [~~such~~] ballot for the use of anyone other than himself or ***the*** [~~such~~] person [~~as shall be~~] designated by the provisions of this chapter, or any person who makes a false statement on an application for ***an absentee*** [~~a special~~] ballot shall be ***guilty of a Class D felony*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both~~].

(6) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day, after he has been duly notified of ***the*** [~~such~~] provisions by the sheriff of the election precinct, shall, for each offense, be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both~~].

(7) Any person who shall have been selected to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections as provided in this chapter shall be ***guilty of a violation*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500),~~] and shall be ineligible to serve as an election officer for a period of five (5) years.

(8) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate voter assistance form shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

Section 34. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and which cast at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) A "ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, [~~a special ballot~~] or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the secretary of state or the county clerk.

(4) "Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.

(5) "Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.

(6) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting and recording his votes in an election.

(7) The word "resident" used in reference to a candidate in a state, district, county or city election shall mean actual resident, without regard to the residence of the spouse of the candidate.

Section 35. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened at 6:00 a.m., prevailing time, and remain open continuously until 6:00 p.m., prevailing time. Any voter who is waiting in line at the polls to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided, however, that no vote shall be cast after 7:00 p.m. No voter who arrives at the polls after 6:00 p.m., prevailing time, shall be allowed to cast his vote.

(2) Any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, or prior to the day of election, be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of four (4) hours on the day he appears before the clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, during normal business hours of the office of the clerk or on the day of the election between the time of opening and closing the polls.

(3) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. Such person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employe may absent himself. No person shall refuse an employe the privilege hereby conferred, or discharge or threaten to discharge an employe or subject an employe to a penalty, because of the exercise of the privilege.

Section 36. KRS 118.045 is amended to read as follows:

(1) Every voting precinct on the day upon which any election is held shall, during voting hours, display an American flag of dimensions of ***reasonable size*** [~~no less than three (3) feet wide by four (4) feet long~~], which shall be firmly attached to the entrance of the voting precinct so that it will be readily visible to the general public.

(2) The precinct sheriff shall attach the American flag to the entrance of the voting precinct upon the opening of the polls on the election day and shall remove the same upon the closing of the polls.

(3) The fiscal court of every county shall purchase out of its general fund sufficient American flags for every voting precinct in that county.

Section 37. KRS 118.115 is amended to read as follows:

Except as provided in subsection (2)(b) of KRS 83A.045 governing vacancies in candidacy, candidates for unexpired terms to be filled at a regular election shall be nominated at the primary next preceding the regular election, if the vacancy occurred not less than ***one hundred thirty-four (134)*** [~~one hundred five (105)~~] days before the primary. If the vacancy occurred less than ***one hundred thirty-four (134)*** [~~one hundred five (105)~~] days before the primary, the nomination shall be made in a manner determined by the governing authority of the political party concerned. In the preparation of ballots, candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.

Section 38. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the ***form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.*** [~~following form:~~

~~Notification and Declaration~~

~~Of~~ ______________________ ~~for nomination to the office of~~ ______________________~~.~~

~~To~~ ______________________ ~~(county clerk or Secretary of State, as case may be).~~

~~Commonwealth of Kentucky.~~

______________________ ~~County.~~

~~For the purpose of having my name placed on the official primary election ballot as a candidate for~~

~~nomination by the~~ ____________ ~~Party, I,~~ ____________ ~~(name in full as desired on the ballot), do solemnly swear that I reside at No.~~ ____________ ~~street in the City of~~ ____________~~; State of Kentucky, and that I am a registered~~ ____________ ~~(party) voter in~~ ____________ ~~precinct, City of~~ ____________~~; that I believe in the principles of the~~ ____________ ~~Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of~~ ____________ ~~(state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.~~

~~I further solemnly swear that I am a bona fide candidate for nomination and am honestly seeking the office for which this notification and declaration is filed; that I expect to make a campaign for the nomination and am not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public; that I am in no sense a pretended, fictitious or "dummy" candidate and am not filing as candidate for the purpose of influencing or controlling or attempting to influence or control a selection of challengers or inspectors or officers of election; that it is my honest purpose and intention to be and remain a candidate through the primary election; that I have not been persuaded, urged, solicited, influenced or induced to file this notification and declaration by any person in furtherance of the interests of any other candidate.~~

____

~~(Signature of candidate)~~

~~Subscribed and sworn to before me by~~ ____________~~, this~~ ______ ~~day of~~ ______~~, 19~~___~~.~~

____

~~(Signature of officer)~~

____

~~(Title of officer)~~

~~My commission expires~~ ____________.]

~~The declaration shall be subscribed and sworn to by the person making it~~[~~,~~] before an officer authorized to administer an oath.

(3) [~~At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the following form:~~

~~Commonwealth of Kentucky.~~

____________ ~~County.~~

~~We,~~ ____________ ~~and~~ ____________~~, do solemnly swear that we are qualified electors and members of the~~ ____________ ~~Party, and were affiliated with that party and supported its nominees at the last regular election; that we are residents and legal voters of the City of~~ ____________~~, County of~~ ____________~~, State of Kentucky; that we are personally acquainted with~~ ____________~~, who files the hereto attached notification and declaration, and we know him to be a discreet citizen and a member of the~~ ____________ ~~Party, and that to the best of our knowledge and belief he has affiliated with and supported that party as defined in the primary election law; that he is a resident of the city, county and state set out in his notification and declaration; that we believe him to be qualified to fill the office of~~ ____________~~; and that he is a bona fide candidate and not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public.~~

~~We do further solemnly swear that to the best of our knowledge and belief the said~~ ____________ ~~is in good faith a candidate for nomination for said office, and that he is not merely becoming a pretended, fictitious or "dummy" candidate for the purpose of influencing or controlling the selection of challengers, inspectors or officers of election for the benefit or in the interest of any other candidate or group of candidates.~~

____

~~(Signatures of affiants)~~

~~Subscribed and sworn to before me by~~ ____________ ~~and~~ ____________~~, this~~ ______ ~~day of~~ ______~~, 19~~___~~.~~

____

~~(Signature of officer)~~

____

~~(Title of officer)~~

~~My commission expires~~ ____________________

~~(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together.~~] When ***the notice and declaration has been*** [~~so~~] filed with the proper officer, and certified according to KRS 118.165, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4)[~~(5)~~] Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

Section 39. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters 83A and 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which ***the*** [~~such~~] papers are permitted to be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. [~~The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified.~~] If there is an error, the ***proper*** officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 40. KRS 118.212 is amended to read as follows:

(1) If, before the time of certification provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in writing, signed and properly notarized that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(2) If, before the ballots are printed, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the clerk shall not cause his name to be printed on the ballot.

(3) If, before the ballots are printed, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.

(4) If, after the ballots are printed, any candidate whose name appears thereon shall ***officially withdraw or*** die, ***neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate*** [~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot~~].

(5) If, after the ballots are printed, any candidate whose name appears thereon shall officially withdraw or die, the county clerk shall provide a notice to the precinct election officers who shall see that the notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notice required by this subsection and the precinct officers fail to post the notice at the polling place, the precinct officers shall be guilty of a violation subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 41. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of

State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. ***The*** [~~Such~~] names shall be certified as follows:

(a) Not less than ***ninety-eight (98)*** [~~eighty (80)~~] days before a primary;

(b) Not less than ***seventy-seven (77)*** [~~sixty-two (62)~~] days before a general election, ***the*** [~~such~~] certification to include only candidates to federal office; and

(c) Not less than ***seventy-seven (77)*** [~~fifty-seven (57)~~] days before a general election, ***the*** [~~such~~] certification to include all candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates whose nominating petitions are filed with the county clerk shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section ***shall*** [~~does~~] not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for ***the*** [~~such~~] city offices grouped according to the offices they seek, and ***the*** [~~such~~] candidates shall be immediately arranged with and designated by the title of office ***they*** [~~such candidates~~] seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which ***the*** [~~such~~] candidates are to be elected shall be clearly separated from other groups on the ballot and spaced so as to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not less than ***eighty-eight (88)*** [~~seventy (70)~~] days before the primary or ***sixty-five (65)*** [~~fifty (50)~~] days before the general election. The State Board of Elections shall meet within five (5) days of ***the*** [~~such~~] notice, review the ballot conditions and determine whether [~~or not~~] supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 42. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall [~~then~~] arrange the surnames of all candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***one hundred sixteen (116)*** [~~eighty-eight (88)~~] days before the primary or ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, ***one hundred sixteen (116)*** [~~eighty-eight (88)~~] days before the primary or ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 43. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2) and (3) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the ***absentee*** [~~special~~] ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(f) Successful nominees of all nonpartisan primaries which shall have been conducted;

(g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;

(h) Where a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If such ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to insertion in the proper ballot frames;

(i) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, where the certificate of nomination of such electors has been filed with the Secretary of State within the time prescribed in this chapter; [~~and~~]

(j) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210***; and***

(k) Candidates for city office for which no nonpartisan primary has been conducted in a city which requires nonpartisan city elections.

(2) Candidates for members of boards of education shall have their names printed on ballot labels and ***absentee*** [~~special~~] ballots for the regular election only after filing as provided in KRS 160.220.

(3) Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and ***absentee*** [~~special~~] ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(4) No county clerk shall knowingly cause to be printed, upon the ballot labels or ***absentee*** [~~special~~] ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in subsection (1) of KRS 118.315.

(5) The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.

(6) Whenever a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy.

Section 44. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(4), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class or to candidates participating in nonpartisan elections.

(2) ***The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters of the same political party affiliation from the district or jurisdiction from which the candidate seeks nomination.*** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the general assembly or commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. Each petitioner shall include his residence, Social Security number and post-office address. ***Failure of a voter to include his Social Security number and address shall result in his signature not being counted.*** If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. [~~The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers are legally qualified, to vote for the candidate. Except for municipal, school board and supervisor of soil and water conservation district races, petition may designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.~~]

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

[~~(5) The state board of elections shall prescribe the forms for the petition.~~]

Section 45. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors

may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of President and Vice President of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a convention or primary election shall be in writing, shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States the certificate of nomination shall state the names of the candidates of the party for President and Vice President.

(3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of President and Vice President of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The ***form of the*** statement shall be prescribed by the State Board of Elections [~~to be subscribed and sworn to by the person making it, before an officer authorized to administer an oath, such form to include the name, place of residence, and the party and office for which he desires to become a candidate. Such statement shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath~~]. Such statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.

(5) In case of death, resignation or removal of any such candidate subsequent to nomination and before the ballot labels are printed, the chairman of the state, county or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of President and Vice President of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(6) If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the secretary of state and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the Secretary of State and county clerk.

Section 46. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. ***The*** [~~Such~~] certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for the holding of regular elections.

(3) [~~Statements of~~] Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file ***the*** [~~such~~] statements [~~as are~~] required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to ***one hundred six (106) days*** [~~three (3) months~~] before the general election[~~;~~] shall be filed [~~by such petitions~~] not later than ***ninety-one (91)*** [~~sixty-eight (68)~~] days prior to the general election.

(6) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than sixty-eight (68) days prior to the date fixed by law for the election of such electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 47. KRS 118.375 is amended to read as follows:

If [~~Where~~] a vacancy occurs in any elective office less than one hundred ***thirty-four (134)*** [~~five (105)~~] days before the primary or at any time after the primary, but not less than ***one hundred six (106) days*** [~~three (3) months~~] before the general election, independent candidates may file their petitions at the time and place provided for in KRS 118.365,[~~;~~] subject[~~, however,~~] to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).

Section 48. KRS 118.405 is amended to read as follows:

No candidate's name shall appear on any voting machine or ***absentee*** [~~special~~] ballot more than once, except that a candidate's name may appear twice if he is a candidate for a primary or a regular election and also a candidate to fill a vacancy in the same office required to be filled at a special election, when the special election to fill a vacancy is scheduled for the regular election day.

SECTION 49. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

A successful candidate in a special election held for the purpose of filling a vacancy in any elective office shall take office immediately upon certification of the election results by the State Board of Elections and administration of the oath of office.

Section 50. KRS 118.581 is amended to read as follows:

The State Board of Elections shall convene in Frankfort sixty (60) days prior to a presidential preference primary. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those [~~generally advocated and nationally recognized as~~] candidates of the political parties for the office of President of the United States ***who have qualified for matching federal campaign funds.*** Immediately upon completion of this requirement, the board shall transmit a list of all ***the*** [~~such~~] nominees selected to the Secretary of State and shall also release the list to the news media.

Section 51. KRS 118.591 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of President of the United States [~~who has not been nominated by the State Board of Elections~~], or any group organized in this state on behalf of, and with the consent of, ***the*** [~~such~~] person, may file with the Secretary of State certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in the Commonwealth and are affiliated, by [~~such~~] registration, with the same political party as the candidate for whom petitions are filed.

(2) ***The*** [~~Such~~] petitions shall be filed by the petitioners with the Secretary of State no later than sixty (60) days prior to a presidential preference primary.

(3) The petitions ***shall*** [~~must~~] state:

(a) The name of the candidate for nomination and the party of which he is a member; and

(b) The name and address of the chairman of the group circulating such petition.

(4) The Secretary of State shall [~~forthwith~~] determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed ***the*** [~~said~~] petitions.

Section 52. KRS 118.601 is amended to read as follows:

(1) The Secretary of State shall [~~forthwith~~] contact each person who has been nominated by [~~the State Board of Elections or by~~] petition and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party[~~, provided that he:~~

~~(a) Deposits with the Secretary of State the sum required by KRS 118.611; and~~

~~(b) Forwards to the Secretary of State a notice of candidacy form, to be supplied by the Secretary of State, along with the written notification required by this section.~~

~~(2) Failure of a candidate to deposit the fee required by KRS 118.611 and to execute the notice of candidacy within fifteen (15) days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary~~].

(2)[~~(3)~~] The order in which the names of candidates for a presidential preference primary are to be printed on the ballot shall be determined by lot at a public drawing in the office of the Secretary of State at 2:00 p.m., standard time, forty-two (42) days before the presidential preference primary.

(3)[~~(4)~~] Not less than forty-one (41) days before the presidential preference primary is to be held, and after the order of the names has been determined as provided by subsection (3) of this section, the Secretary of State shall certify to each county clerk the name, place of residence and party of each candidate, as specified in the notice of candidacy forms or petitions filed with him and shall designate the device with which the candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential elections, followed by the political party which received the second highest number of votes.

Section 53. KRS 118.611 is amended to read as follows:

[~~(1)~~] Before any candidate's name is placed upon the official ballot by the Secretary of State for a presidential preference primary in the Commonwealth, the candidate ***shall remit to*** [~~must deposit with~~] the Secretary of State ***a filing fee*** [~~the sum~~] of one thousand dollars ($1,000), which shall be ***non-refundable*** [~~refunded to the candidate by the Secretary of State if the candidate receives three percent (3%) or more of the total vote cast in the presidential preference primary of his political party.~~

~~(2) If the candidate fails to receive three percent (3%) or more of the total popular vote cast in the presidential preference primary of his party, the one thousand dollars ($1,000) deposit shall escheat to the Commonwealth and be placed in a special trust and agency fund to be used by the Secretary of State to defray election expenses~~].

Section 54. KRS 118.621 is amended to read as follows:

(1) The Secretary of State shall place the names of all candidates who have been nominated by [~~the State Board of Elections or by~~] petition [~~and who satisfy the requirements of KRS 118.601 and 118.611~~] on the official presidential preference primary ballot of their respective political parties. The Secretary of State shall additionally place on the ballot of each political party a ballot slot for voters to cast an "uncommitted" vote. This vote shall be entitled to the same proportionate representation as a candidate under KRS 118.641, but delegates representing these voters shall not be bound by the first ballot requirement of KRS 118.631.

[~~(2) If no presidential candidates nominated by the board or by petition meet the requirements of KRS 118.601 and 118.611, then no presidential preference primary shall be held in the Commonwealth.~~]

Section 55. KRS 118.740 is amended to read as follows:

A copy of a proclamation issued under KRS ***118.710,*** 118.720***, or 118.730*** shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least ***thirty-five (35)*** [~~twenty (20)~~] days before the election. [~~A writ of election issued under KRS 118.730 shall be forwarded by mail to the sheriff of each county in which the election is to be held, in sufficient time to enable~~] The sheriff ***of***

each county in which an election is to be held shall [~~to~~] give notice [~~of the election~~] at least ***thirty (30)*** [~~fifteen (15)~~] days before the day of election[~~, and no such writ shall be issued unless it will enable the sheriff to give such notice~~]. If, from any cause, the sheriff cannot properly act, he shall immediately hand the writ or proclamation to the person authorized to act in his place.

Section 56. KRS 118.770 is amended to read as follows:

When a writ of election is issued to fill a vacancy ***as prescribed in KRS 118.710, 118.720 or 118.730,*** [~~in the office of member of the general assembly or the office of member of congress,~~] independent petitions and certificates of nomination may be filed ***twenty-eight (28)*** [~~ten (10)~~] days before the day of election, and if filed with the Secretary of State shall be immediately certified by him to the proper county clerks.

Section 57. KRS 118.995 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 118.136 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or confined in the county jail for not less than thirty (30) days nor more than ninety (90) days, or both~~].

(2) If the Secretary of State violates any of the provisions of subsection (4) of KRS 118.215, he shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(3) Any person who violates subsection (5) of KRS 118.176 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty dollars ($20) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than one (1) month nor more than six (6) months, or both, and may also be proceeded against for contempt~~].

(4) If any county clerk violates any of the provisions of subsection (4) of KRS 118.305 he shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

Section 58. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for holding the primary election. ***The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination.*** The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

(3) The petition for nomination shall [~~state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall~~] be in the form prescribed by the State Board of Elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***one hundred sixteen (116)*** [~~eighty-eight (88)~~] days before the primary election.

(5) Not less than ***ninety-eight (98)*** [~~eighty (80)~~] days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, ***no drawing for ballot position shall be held and*** the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 59. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the regular election.

(2) Not less than ***seventy-seven (77)*** [~~fifty-seven (57)~~] days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1) ***of this section***, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 60. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than one hundred ***thirty-four (134)*** [~~five (105)~~] days before the primary. If the vacancy occurs on or after the one hundred ***thirty-fourth*** [~~fifth~~] day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, and ***the*** [~~such~~] candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through ***(11)***[~~(14)~~] of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State at least ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for holding the regular election. ***The*** [~~Such~~] petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which ***the*** [~~such~~] papers are permitted to be filed.

(4) [~~The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy.~~] The petition ***for candidacy*** shall be in the form prescribed by the State Board of Elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the regular election.

(7) Not less than ***seventy-seven (77)*** [~~fifty-seven (57)~~] days before the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 61. KRS 118A.150 is amended to read as follows:

(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.

(2) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.

(3) No county clerk shall knowingly cause to be printed on the ballot labels or ***absentee*** [~~special~~] ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.

(4) If, before the time of certification provided for in this chapter, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(5) If, before the ballots are printed, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.

(6) If after the ballots are printed, any candidate whose name appears thereon shall ***withdraw or*** die, ***neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate*** [~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot~~].

(7) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die, the county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation, subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 62. KRS 119.015 is amended to read as follows:

Any county clerk or deputy county clerk who falsely or fraudulently registers the name of any person, or permits any person to register knowing that ***the*** [~~such~~] person is not entitled to register, or who fails or refuses to deliver copies of the registration records to a person entitled thereto, [~~or to the proper election officers for use in elections,~~] shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years~~].

Section 63. KRS 119.025 is amended to read as follows:

[~~(1) In the case of registration outside of cities of the first class,~~] Any person who knowingly or fraudulently causes himself to be registered in more than one (1) precinct, ***or to be registered more than once,*** or in a precinct other than the one in which he is a legal voter, or who registers under any name other than his real name, or who gives a false address, or who in any manner causes himself to be registered when he is not legally entitled to register, [~~or who knowingly or fraudulently aids, abets, counsels or advises in the commission of any such act, shall be imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years.~~

~~(2) In the case of registration in cities of the first class, any person who knowingly causes himself to be registered in more than one (1) precinct, or to be registered more than once, or to be registered when he is not entitled to register,~~] or who makes a false oath as to his ability to read or write, or who ***knowingly or fraudulently*** aids, [~~or~~] abets, ***counsels or advises*** in the commission of any such act, shall be ***subject to the penalties prescribed for Class D felonies*** [~~fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years, or both~~].

Section 64. KRS 119.035 is amended to read as follows:

Any person who fraudulently or unlawfully alters any registration record, or fraudulently adds any name thereto, or willfully secretes, suppresses, mutilates or destroys any registration record, or makes or uses any false or fraudulent registration record, [~~shall, when such act occurs in connection with registration outside of a city of the first class, be imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years. When such act occurs in connection with registration in a city of the first class, such person,~~] and any person who aids or abets in the commission of such act, shall be ***subject to the penalties prescribed for Class D felonies*** [~~fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years, or both~~].

Section 65. KRS 119.045 is amended to read as follows:

Any person who attempts to or forcibly prevents any person from registering, or in any way unlawfully interferes with any person registering, or prevents or interferes with a clerk or registration officer in carrying out his duties with relation to the registration of voters, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than six (6) months nor more than twelve (12) months, or both~~].

Section 66. KRS 119.056 is amended to read as follows:

Any person in possession of nomination papers entitled to be filed under the statutes relating to primary elections who wrongfully alters, mutilates or suppresses such papers, or wrongfully fails to cause them to be filed at the proper time in the proper office, shall be ***guilty of a Class A misdemeanor*** [~~fined not more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both~~].

Section 67. KRS 119.065 is amended to read as follows:

Any person who forges the name of a signer to a nomination paper shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary for not less than two (2) years nor more than ten (10) years~~].

Section 68. KRS 119.076 is amended to read as follows:

Any county clerk who willfully and knowingly refuses or fails to have the name of any candidate printed upon the official ballot in the manner provided by law shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years~~].

Section 69. KRS 119.095 is amended to read as follows:

Any printer of ballots, or person employed in printing ballots, who prints or permits to be printed any ballot in any other form than the one prescribed by law, or with any name or device placed, spelled or arranged thereon other than as authorized and directed by the county clerk, or who gives or delivers, or knowingly permits to be taken, any ballot by any person other than the county clerk for whom the ballots are being printed, shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary for not less than three (3) years nor more than ten (10) years~~].

Section 70. KRS 119.115 is amended to read as follows:

(1) Any unauthorized person found in possession of any key to a voting machine to be used or being used in any primary, general or special election shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) and imprisoned in the county jail for not more than six (6) months~~].

(2) Any person who, during or before any primary, general or special election willfully tampers with or attempts to tamper with, disarrange, deface or impair in any manner whatsoever, injures or destroys any ballot label, or destroys any such voting machine while in use at an election or at any other time, or who shall, after such machine is locked and sealed in order to preserve the record of the vote, tamper with or attempt to tamper with the record of the vote, or who aids or abets with intent to destroy or change the record of the vote shall be punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years.

(3) Any election official, or other person entrusted with the custody or control of any voting machine who, with intent to cause or permit any voting machine to fail to correctly register votes cast thereon, tampers with or disarranges such machine in any way, unlawfully opens such voting machine, prevents or attempts to prevent the correct operation of such voting machine or causes such voting machine to be used or consents to its being used for any election with knowledge of the fact that the machine is not in order, or not perfectly set and adjusted to correctly register all votes cast thereon, or removes, changes or mutilates any ballot label on a voting machine shall be punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years.

Section 71. KRS 119.155 is amended to read as follows:

(1) Any person who unlawfully prevents or attempts to prevent any voter from casting his ballot, or intimidates or attempts to intimidate any voter so as to prevent him from casting his ballot, or who unlawfully interferes with the election officers in the discharge of their duties, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than five (5) years, for each offense~~].

(2) Any person who, by himself or in aid of others, forcibly breaks up or prevents, or attempts to break up or prevent, or obstructs or attempts to obstruct, the lawful holding of an election, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than one (1) year~~].

Section 72. KRS 119.165 is amended to read as follows:

(1) Any person who falsely personates a registered voter, and receives and casts a ballot by means of such personation, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than two (2) years, and shall forfeit his right to vote forever after~~]. An attempt at such personation shall ***constitute a Class B misdemeanor*** [~~be punished by a fine of not more than two hundred dollars ($200), and imprisonment in the county jail for not more than six (6) months~~].

(2) Any person who, by means other than falsely personating a registered voter, votes at an election in this state when he is a resident of another state or country, or votes more than once at an election, or knowingly votes or offers to vote in a precinct other than the one in which he resides, or votes by use of the naturalization papers of another person, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary~~

~~for not less than one (1) year nor more than five (5) years~~]. Any person who lends or hires his or another's naturalization papers to be used for the purpose of voting shall be subject to the same penalty.

(3) Any resident of this state who, by means other than falsely personating a registered voter, votes at a regular or special election before he has resided in this state thirty (30) days, or in the county and precinct where the election is held the time required by law, or before he has attained full age, or before he has become a citizen, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100), or imprisoned in the county jail for not less than ten (10) days nor more than ninety (90) days, or both~~].

(4) Any person who, by means other than falsely personating a registered voter, votes in a primary election knowing that he is not qualified as provided in KRS 116.055, shall be fined one hundred dollars ($100) for each offense.

(5) Any person who applies for or receives a ballot at any voting place other than the one at which he is entitled to vote, under circumstances not constituting a violation of any of the provisions of subsections (1) to (4) of this section, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty dollars ($20.00) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than six (6) months, or both~~].

Section 73. KRS 119.195 is amended to read as follows:

(1) Any person who, during an election, knowingly and willfully removes or attempts to remove an official ballot from the election room, or has in his possession outside the election room any official ballot, either genuine or counterfeit, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than two (2) years nor more than five (5) years~~].

(2) Any voter who attempts to leave the election room with an official ballot in his possession shall at once be arrested on demand of either of the judges of election and shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(3) Any person who takes or removes in any manner, feloniously or with the consent or permission of the custodian, any official ballot from any place where it may lawfully be, or knowingly and willfully has in his possession or custody any such official ballot except as an officer or custodian under the law or while within the polling place for the purpose of voting, and any custodian or officer who permits any official ballot to be removed or carried away from the place where it may lawfully be by any person other than the officer or custodian whose duty it is to receive it, shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary, for not less than three (3) years nor more than ten (10) years~~].

(4) Any election officer, or other person entrusted with the custody or control of any official ballot, either before or after it has been voted, who in any way marks, mutilates or defaces any official ballot or places any distinguishing mark thereon, for the purpose of vitiating the official ballot, shall be fined not more than two thousand dollars ($2,000) and imprisoned in the penitentiary for not less than five (5) years nor more than ten (10) years.

(5) Any person who unlawfully destroys or attempts to destroy any official ballot box used, or any official ballot deposited, at any election, or who unlawfully, by force, fraud or other improper means, obtains or attempts to obtain possession of any ballot box or any official ballot therein deposited, while the voting at any election is going on or before the official ballots are duly taken out and counted according to law, shall be confined in the penitentiary for not less than one (1) year nor more than five (5) years, and fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000).

(6) Any election officer who mutilates or tampers with any of the seals, or destroys or removes any official ballots required to be preserved, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(7) Any county clerk who knowingly and willfully opens any ballot box and removes any official ballot therefrom, or removes, destroys or tampers with a ballot box and official ballots left in his care and custody, or permits any other person to do so, during the period the boxes are required to remain locked in his office, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(8) Any person who removes, mutilates or destroys, or adds any new official ballots to, the regular official ballots that have been counted and prepared for preservation, or that have already been preserved, so that the result of the election in the precinct or county is changed, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(9) Any person who tampers with or changes the official ballots, or opens the receptacles in which the

official ballots are contained without the order of the court, after the ballots have been sent to the Franklin County courthouse in connection with the contest of a constitutional amendment, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than six (6) months nor more than one (1) year~~].

Section 74. KRS 119.205 is amended to read as follows:

(1) Any person who receives a bribe for his vote at an election, or for his services or influence in procuring a vote at an election, shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or be confined in the penitentiary for not less than one (1) nor more than five (5) years, or both, and shall be excluded from office and suffrage upon conviction.

(2) Any person who bribes, conspires to bribe another or assists to bribe another shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or be confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both, and upon conviction shall be excluded from office and suffrage.

(3) "Bribe," as used in this section, means any reward, benefit or advantage, present or future, to the person influenced or intended to be influenced, or to another at his instance, or the promise of such reward, benefit or advantage; it includes money or other thing of value given or lent to be wagered on the result of an election, or the promise thereof, or a bet with another that such other will vote for a named candidate, and the gift or promise of a share in any such bet made or to be made.

(4) Any person who receives money or other thing of value to be used for the purpose of procuring or influencing a vote shall be deemed to have been bribed.

(5) (a) Any candidate or person working on behalf of any candidate who knowingly makes payment to another or any person who receives payment from such candidate, or person for services rendered or goods furnished, including advertising, in excess of that normally charged for such services or goods, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both~~].

(b) No candidate or committee, or any person on their behalf, shall pay any person more than the reasonable value thereof for transporting voters to the polls on the day of an election. All such payments shall be by check and no portion of such payment shall be paid to any of the persons transported. Any person found guilty of a violation of this subsection shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both~~].

Section 75. KRS 119.225 is amended to read as follows:

Any member of a county board of elections who refuses to permit an inspector designated under KRS 117.275 and 117.315 to exercise free and full action in witnessing the count of the ballots, or interferes with the right of such an inspector to have a free and full opportunity to witness the count of the ballots, shall be guilty of a ***Class A*** [~~high~~] misdemeanor[~~, and shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), or imprisoned in the county jail for not less than six (6) months nor more than one (1) year~~].

Section 76. KRS 119.235 is amended to read as follows:

Any person who willfully alters, obliterates, secretes, suppresses or destroys a stub book, return or certificate of election, and any officer who makes, aids in making or authorizes the making of any false or fraudulent stub book, certificate of election or election return, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than five (5) years~~].

Section 77. KRS 119.245 is amended to read as follows:

Any member of the state board of elections or of a county board of elections who willfully and knowingly violates any provision of the statutes relating to his duties, or fails to execute faithfully any of the duties imposed upon him by law, for which no other penalty is provided, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not more than sixty (60) days~~].

Section 78. KRS 119.255 is amended to read as follows:

Any person who, by threat of violence or in any other manner, intimidates or attempts to intimidate the election officers, the state board of elections or a county board of elections in the performance of their duty and any persons who conspire together and go forth armed for the purpose of intimidating said officers, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years~~].

Section 79. KRS 119.265 is amended to read as follows:

Any public officer who willfully neglects to perform a duty imposed upon him under the election laws, for which no other penalty is provided, or who willfully performs such duty in a way that hinders the objects of the election laws, shall be ***guilty of a Class B misdemeanor*** [~~fined fifty dollars ($50.00) and imprisoned in the county jail for two (2) months~~].

Section 80. KRS 119.325 is amended to read as follows:

Any person having the possession of any books, correspondence or papers of a corporation that may show or tend to show any violation of the provisions of KRS 121.025, or of KRS 121.045 or 121.055, or of subsection (1) of KRS 121.310, who refuses, when summoned by a grand jury, to produce such books, correspondence or papers, or to appear and testify concerning them or to give any other evidence material to the matter under investigation, shall be ***guilty of a Class A misdemeanor*** [~~proceeded against for contempt, and upon conviction shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year~~].

Section 81. KRS 132.017 is amended to read as follows:

(1) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district subject to recall as provided for in KRS 68.245, 132.023, 132.027 and 160.470, shall go into effect forty-five (45) days after its passage. If during the forty-five (45) days next following the passage of the order, resolution, or motion, a petition signed by a number of registered and qualified voters equal to ten percent (10%) of the voters voting in the last presidential election is presented to the county clerk or his authorized deputy[~~, or to the county fiscal court, district board of education, or legislative body of a city or urban-county government or other taxing district, as the case may be,~~] protesting against passage of the ordinance, order, resolution, or motion, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (2) of this section. ***When the*** [~~If such~~] petition is presented to the county clerk or his authorized deputy, ***the*** [~~such~~] officer shall immediately notify the presiding officer of the appropriate fiscal court, district board of education, or legislative body of a city or urban-county government or other taxing district, as the case may be. Each sheet of the petition shall contain the names***, residence*** [~~and~~] addresses ***and Social Security numbers or dates of birth*** of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. [~~The board or boards of registration in the county shall give necessary and appropriate aid to~~] The county clerk ***shall*** [~~so that such officer may~~] make the conclusive determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(b) The county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending ***the*** [~~such~~] ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. ***The*** [~~Such~~] action by the county fiscal court, district board of education, legislative body of a city, urban-county government or other taxing district shall be valid only if taken within fifteen (15) days following the date of the presentation of the petition.

(2) (a) ***If*** [~~In the event~~] an election is necessary under the provisions of subsection (1) of this section, the county fiscal court or legislative body of a city, urban-county government or other taxing district shall cause to be submitted to the voters of the county, district, or urban county at the next regular election, the question as to whether ***the*** [~~such~~] property tax rate shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect.

(b) ***If*** [~~In the event~~] an election is necessary for a school district under the provisions of subsection (1) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than twenty (20) days nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether ***the*** [~~such~~] property tax rate shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect, and the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district, as the case may be. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) Notwithstanding any statutory provision to the contrary, ***if*** [~~in the event that~~] a city, county, school district or other taxing district has not established a final tax rate as of September 15, due to the recall provisions of KRS 68.245, 132.017, 132.027 or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by ***that*** [~~such~~] date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(4) ***If*** [~~In the event~~] a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(5) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

Section 82. KRS 160.477 is amended to read as follows:

(1) (a) Upon request of the board of education of any school district, the county ***clerk*** [~~board of elections~~] shall submit to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five cents (5) nor more than fifty cents (50) as requested by the board shall be levied on each one hundred dollars ($100) of property subject to local taxation. This tax levy shall be in addition to the maximum school tax levy provided by subsection (2) of KRS 160.470. The income from the tax shall be used for the purchase or lease of school sites and buildings and physical education and athletic facilities, for the erection and complete equipping of new school buildings and physical education and athletic facilities, for the major alteration, enlargement and complete equipping of existing buildings, and physical education and athletic facilities, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school improvements, for the purpose of providing maintenance and insurance for school facilities, and for the purpose of financing any program for the acquisition, improvement, or building of school improvements. The question shall be so framed that the voter may by his vote answer "for" or "against;"

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county ***clerk*** [~~board of elections~~], and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district; and

(c) If a majority of those voting on the question favor the special school building tax levy, the tax-levying authority shall, when the next tax rate for the district is fixed, levy the special rate specified for the school building fund in addition to the levy provided by subsection (2) of KRS 160.470.

(2) There may be included, in the maximum levy provided for in subsection (2) of KRS 160.470, a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and allow any balances to remain in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "special voted school building fund." The fund shall be kept in the depository selected by the district board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state;[~~,~~] provided, however, that such investment shall be approved by the State Board for Elementary and Secondary Education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section and shall be made in accordance with the school laws of the state at such times as the district board of education determines. The district board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the State Board for Elementary and Secondary Education.

(6) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (7) of this section, and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(7) Notwithstanding the limitations contained in subsection (6) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapters 58 and 162.

Section 83. KRS 160.597 is amended to read as follows:

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

(1) The order or resolution levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage. If, during the thirty (30) days immediately following the passage of the order or resolution, a petition signed by a number of registered and qualified voters equal to fifteen percent (15%), except in counties containing a city of the first class, equal to five percent (5%), of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the county ***clerk*** [~~board of elections~~] requesting that the order or resolution of ***the*** [~~such~~] tax be placed before the voters for approval, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. The person presenting the petition shall be given a receipt indicating the date of presentation. Each sheet of the petition shall contain the names, ***residence*** [~~and~~] addresses, ***Social Security numbers, and dates of birth*** of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One (1) or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The county ***clerk*** [~~board of elections~~] shall make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution, and immediately [~~thereafter~~] shall notify the school board that the petition has been received and that the order or resolution levying ***the*** [~~such~~] tax will be placed before the voters for approval. The ***county clerk*** [~~board of elections~~] shall certify to the school board within thirty (30) days of receipt of the petition that the petition is properly presented and in compliance with the provisions of this section. If the ***county clerk*** [~~board of elections~~] finds the petition to be invalid, it shall state in writing the deficiency of said petition. Written notification that the petition has been declared invalid and the deficiencies thereof shall be sent by certified mail to the person to whom a receipt was given by the ***county clerk*** [~~board of elections~~], and shall be published at least one (1) time in a newspaper of general circulation within the county containing the school district levying the tax, or if there be no such newspaper, shall be posted at the courthouse door. If good cause is shown, the ***county clerk*** [~~board of elections~~] shall permit the petitioners to correct the deficiencies either by securing additional valid signatures or by circulating a new petition, ***the*** [~~such~~] petition to be submitted to the ***county clerk*** [~~board~~] within thirty (30) days from the date of the written notification of the deficiencies.

(2) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county ***clerk*** [~~board of elections~~] shall submit the question to the voters of the school district at the next regular election or a called common school election, either of which is to be held not less than sixty (60) days from the date of the passage of the order or resolution. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district upon the question oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district upon the question favor its passage, the order or resolution shall go into effect in that district. ***If*** [~~In the event that~~] the election is to be held in more than one (1) school district within a county, the votes shall be counted separately. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.

Section 84. KRS 162.080 is amended to read as follows:

(1) Whenever a board of education deems it necessary for the proper accommodation of the schools of its district to enlarge sites for school buildings, to purchase new sites, which in the case of independent districts may be not more than two (2) miles without the boundary lines of the district, to improve, remodel or restore school buildings, to erect or equip new school buildings, or for any or all of these purposes, and the annual funds raised from other sources are not sufficient to accomplish the purpose, the board shall make a careful estimate of the amount of money required for the purpose and shall determine the amount of money for which bonds shall be issued and the purpose to which the proceeds shall be applied. Upon request of the board of education of any district, the county ***clerk*** [~~board of elections~~] shall submit to the qualified voters of the district, the question as to whether bonds shall be issued for the purpose. The question shall be so framed that the voter may by his vote answer "for" or "against."

(2) The request shall be accompanied by an ordinance or resolution which shall fix the time the bonds shall run and, if a serial issue, the amount to mature at each time. It shall limit the rate of interest to be permitted on the bonds, which shall not exceed the amount permitted by law, and the total amount of bonds to be issued, and shall provide for the levy of a tax to pay the interest and to create a sinking fund to retire them at their maturity.

(3) The election shall be held not less than fifteen (15) nor more than thirty (30) days from the time the request of the board of education is filed with the county ***clerk*** [~~board of elections~~], and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

Section 85. KRS 242.020 is amended to read as follows:

(1) A petition for an election shall be signed by a number of constitutionally qualified voters of the territory to be affected, equal to twenty-five percent (25%) of the votes cast in the territory at the last preceding general election. The petition may consist of one (1) or more separate units, and shall be filed with the county clerk.

(2) The petition for election, in addition to the name of the voter, shall state also his ***residence*** [~~post office~~] address***, Social Security number or date of birth*** and the correct date upon which his name was signed.

(3) No signer may withdraw his name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for election without his authority, he may appear before the county judge/executive before the election is ordered and upon proof that his name was placed on the petition without his authority, his name may be eliminated by an order of the county judge/executive. When his name has been eliminated, he shall not be counted as a petitioner.

(4) After a petition for election has been filed, the county judge/executive shall make an order on the order book of the court directing an election to be held in that territory.

Section 86. KRS 242.070 is amended to read as follows:

Not more than twenty (20) days prior to an election, any group of citizens that in good faith favors or opposes the proposition to be submitted may file with the chairman of the county board of ***elections*** [~~election commissioners~~] a petition asking that it be recognized as the committee entitled to nominate election officers and to certify challengers, witnesses to the counting of the votes and certification of the results, and guards to assist in guarding the boxes containing the votes which have been cast during the period which the group desires. If more than one (1) group claims the right to nominate election officers and certify challengers, witnesses and guards, the county board of ***elections*** [~~election commissioners~~] shall promptly decide and publicly announce which committee is entitled to nominate officers and certify challengers, witnesses and guards. That decision shall not be final, but any aggrieved party may appeal to the county judge/executive, and upon hearing the county judge/executive shall determine which group shall be recognized.

Section 87. KRS 242.080 is amended to read as follows:

(1) The respective committees advocating and opposing the proposition shall each file with the chairman of the county board of ***elections*** [~~election commissioners~~] before the time designated for the selection of officers a list of not more than four (4) persons possessing the qualifications of election officers for each voting precinct, and the board of ***elections*** [~~election commissioners~~] shall appoint the officers from those lists, as provided in KRS 242.090.

(2) The committees may sign and issue certificates designating challengers at the polls, witnesses to the count of votes and guards to assist in guarding the boxes containing votes which have been cast, in the same manner as political committees under the general election laws.

Section 88. KRS 242.090 is amended to read as follows:

The county board of ***elections*** [~~election commissioners~~], not more than fifteen (15) and not less than ten (10) days before the day appointed for the holding of the election, shall appoint officers to conduct the election, in the manner provided by general election laws. It shall make equal division of officers between those favoring and those opposing the proposition instead of between political parties. The same equal division of challengers at the polls, of witnesses at the count, and of guards to guard the boxes, shall be made.

Section 89. KRS 242.110 is amended to read as follows:

The result of the election shall be certified by the county board of ***elections*** [~~election commissioners~~]. The certificate of the result shall be immediately filed with the county clerk and the county judge/executive shall have the certificate entered on the order book. The entry of the certificate, or an attested copy thereof, shall be prima facie evidence of the result of the election in actions under this chapter.

Section 90. KRS 83A.045 is amended to read as follows:

(1) Partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than ***one hundred nineteen (119)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

(c) A candidate for city office in a partisan election shall be prohibited from being a registered party candidate during a primary election and, if defeated in the primary, changing his registration to independent for the purpose of seeking the same office at the regular election for which he was defeated in the primary election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175 and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than ***one hundred nineteen (119)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forego conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (7), and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number

of city offices to be filled[~~,~~] who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity or withdrawal of a candidate, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than ***ninety-one (91)*** [~~sixty-eight~~ ~~(68)~~] days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election and there are no remaining candidates running to fill the office for which a vacancy has occurred, the office shall remain vacant until after the regular election and if no person is elected to the office by write-in ballots at the regular election, the vacancy in office shall be filled temporarily by the officer or body designated by law to fill the appointment.

Section 91. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition ***of nomination which shall be in the form prescribed by the State Board of Elections*** signed by at least two (2) registered voters in the city. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. [~~The petition shall be in the following form:~~

~~"We the undersigned, qualified voters of the City of ______ request that the name of ______ be placed before the voters of the city as that of an applicant for nomination for the office of at the primary election to be held in our city on the date prescribed by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.~~

~~Name~~	~~Street Address~~	~~Social Security Number~~
		"

~~The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers.~~] No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no ***drawing for ballot position nor*** primary election shall be held for that office. If, in accordance with the provisions of this section, a primary election has not been held, candidates for nonpartisan city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall ***withdraw pursuant to KRS 118.212 or*** die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation [~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot~~].

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 92. KRS 83A.175 is amended to read as follows:

(1) Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred ***thirty-four (134)*** [~~five (105)~~] days before the primary. If the vacancy occurs on or after the one hundred ***thirty-fourth (134th)*** [~~fifth~~] day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are [~~such~~] offices to be filled, or if a fourth to sixth class city has not conducted a primary election pursuant to KRS 83A.045, the election to fill the regular term shall be conducted in the manner prescribed by this section.

(3) Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk, file with the county clerk a petition for candidacy. ***The petition shall be prescribed by the State Board of Elections and shall be*** signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, [~~then~~] he shall be counted as a petitioner for the candidate whose petition is filed first. [~~The petition shall be in the following form:~~

~~"We the undersigned, qualified voters of the City of~~ __________ ~~request that the name of~~ __________ ~~be placed before the voters of the city as that of a candidate for election for the office of~~ __________ ~~at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.~~

~~Name~~	~~Street Address~~	~~Social Security Number~~
__________	__________	__________
__________	__________	__________
__________	__________	__________"

~~The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers.~~] No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall [~~not~~] be counted as valid ***only on the first petition filed*** [~~on any petition~~].

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(6) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk[~~,~~] dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(7) If, after the ballots are printed, any candidate whose name appears thereon shall ***withdraw pursuant to KRS 118.212 or*** die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation [~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot~~].

Section 93. The following KRS sections are repealed:

116.049 Voter registration card.

116.075 Registration application form - Report to state board; and

119.135 Election officer's failure to perform duty.

The Committee Substitute to **SB 47** is as follows:

SB 47, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.243 is amended to read as follows:

(1) In addition to the other duties and powers of the Attorney General, he shall enforce all of the state's election laws by civil or criminal processes.

(2) The Attorney General shall:

(a) Devise and administer programs to observe the conduct of elections;

(b) Hold public hearings;

(c) Establish a toll-free telephone service for the purpose of receiving reports of election law violations. The service shall be operated during regular business hours throughout the year and during the hours which any poll in the state is open on the day of any primary, special election or regular election;

(d) Initiate investigations or investigate alleged violations of election laws at the request of a registered voter or on his own motion;

(e) Issue subpoenas for the production of any books, papers, correspondence, memoranda or other records, and compel the attendance of witnesses that he deems relevant to the purposes of any investigation;

(f) Present evidence of alleged violations to a grand jury; and

(g) File appropriate complaints in any court of competent jurisdiction.

(3) (a) The Attorney General shall be required to begin an independent inquiry for any potential irregularities that may have occurred in each election in not fewer than five percent (5%) of Kentucky's counties, to be selected at random in a public process, within twenty (20) days following each primary or regular election. ***No county shall be subject to inquiry under this subsection in two (2) consecutive elections.***

(b) The Attorney General shall report his findings to the grand jury of each county involved and to the chief circuit judge for the circuit in which the county is located.

(4) When the Registry of Election Finance concludes there is probable cause to believe a violation of election laws has occurred, it shall forward the matter to the Attorney General for prosecution. In the event the Attorney General or local prosecutor fails to prosecute the matter in a timely fashion, the registry's attorney may petition the Circuit Court to be appointed as a special prosecutor. Upon such motion timely filed, for good cause shown, the court shall enter an order to that effect.

(5) When requested by the Attorney General, all state and local agencies and officials, including the Auditor of Public Accounts, Commonwealth's attorneys, county attorneys, Registry of Election Finance, state police, sheriffs' departments and local police shall give all possible assistance to the Attorney General in the performance of his duties.

Section 2. KRS 116.025 is amended to read as follows:

(1) Every person[~~, male or female,~~] who is a resident of this state and [~~has resided in~~] the precinct in which he offers to vote ***on or before the day preceding the closing of the registration books for any primary,*** general [~~thirty (30) days next preceding the day of any regular~~] or special election, who possesses on the day of any election the qualifications set forth in Section 145 of the Constitution, exclusive of the durational residency requirements, who is not disqualified under that section or under any other statute, and who is registered as provided in this chapter, may vote for all officers to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote. Any person who shall have been convicted of any election law offense which is a felony shall not be permitted to vote until his civil rights have been restored by executive pardon.

(2) ***Any person*** [~~Persons~~] charged with or indicted for a crime, whether or not in custody for same, who ***has*** [~~have~~] not yet been convicted of the [~~said~~] offense and who ***is*** [~~are~~] not otherwise ineligible to vote, may vote for all offices to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote.

(3) A registered voter who moves ***while the registration books are closed for*** [~~less than thirty (30) days before~~] an election and is not permitted to register at his new residence may vote at his former residence, either in person or by absentee ***ballot*** [~~vote~~].

Section 3. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) [~~Except during implementation of the initial statewide registration,~~] The county ***clerk*** [~~board of elections~~] shall cause all registration to be closed the ***fourth Tuesday preceding through the first Monday*** [~~thirty (30) days prior to, and the five (5) days~~] following, any primary or general election, and the ***twenty-eight (28) days prior to and seven (7) days following*** [~~ten (10) days prior to~~] any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed; except that, registration shall be closed only in those precincts in which the election is held. ***During the period that registration is closed, the county clerk shall accept no registrations or changes in registration except those received by mail or completed on election day at the polls and delivered to the clerk by the precinct election officers.***

(3) In all counties, the county clerk shall receive registration, transfers, or change of party affiliation at branch offices at any place in the county during those periods that the registration books are open. However, notice in the manner provided by KRS Chapter 424 ***shall*** [~~must~~] be given at least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice ***shall*** [~~must~~] be given to the county executive committee of each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation in any of the following ways:

(a) In person;

(b) By mail;

(c) By means of the federal post card application, if the person is a resident of Kentucky and a member of the armed forces, or a dependent of members of the armed forces, ***or overseas citizen***; or

(d) By [~~such~~] other methods of registration, or reregistration, [~~as~~] approved by the State Board of Elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county ***clerk*** [~~board of elections~~], which may include door to door canvassing.

(5) Upon receipt of the form prescribed by the State Board of Elections, properly filled out and signed by the applicant, the county clerk shall register the applicant.

(6) Any individual or group shall have access to a reasonable number of voter registration forms in the county clerk's office. ***The*** [~~Such~~] individual or group shall ***act under the proper supervision and directions of the county clerk and shall*** return these completed forms to the county clerk for official registration by the county clerk.

(7) The county clerk shall provide voter registration cards which shall be made available where motor vehicle license plates are issued. ***The*** [~~Such~~] cards shall be displayed in plain view and notice of their availability posted prominently. Personnel who issue [~~such~~] licenses may offer a voter registration card. The completed forms shall be returned by the applicant either in person or by mail to the county clerk for official registration.

Section 4. KRS 116.046 is amended to read as follows:

(1) The county clerk shall provide voter registration forms to each principal or assistant principal of every public high school, each area vocational school, and upon request, private schools, who shall designate a person in each school who shall be responsible for informing students and school personnel of the availability of the registration forms and assist them in properly registering [~~with the party of their choice~~]. The completed forms shall be returned to the county clerk, for official registration by the county clerk.

(2) ***Any person designated to assist in registration in subsection (1) of this section shall fulfill this responsibility in an impartial and fair manner and shall not recruit a registrant for any particular party.***

(3) The State Board of Education shall implement programs of public education regarding elections, voting procedures, and election fraud, which shall include an audio-visual presentation for high school juniors and seniors. The State Board of Education, after consultation with the State Board of Elections, shall update the public education programs required by this section as relevant statutory changes occur, as different types of voting machines are used, or as more effective methods of presentation shall be developed.

Section 5. KRS 116.055 is amended to read as follows:

[~~(1)~~] Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party at the time of the preceding regular election, or, in the case of new registrations not involving a change of political affiliation made after the preceding regular election, have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races.

[~~(2) In order to determine a voter's qualifications in case of doubt, one (1) of the judges of election shall swear the person as to any of the qualifications, and when so sworn the clerk shall write upon the voter's registration card the words, "sworn as to qualification."~~]

Section 6. KRS 116.085 is amended to read as follows:

(1) When a voter changes his place of residence [~~from one precinct~~] to another ***location*** within the county, the clerk shall, upon application of the voter in person or by mail, transfer the voter's registration record to the proper precinct.

(2) When the boundaries of a precinct are changed by law, placing a registered voter in a new or different precinct, the clerk shall automatically transfer the voter's registration record to the proper precinct and mail the voter a notice of the change.

(3) ***A voter who has changed his name may indicate the change at the precinct on election day by completing the form provided for this purpose by the State Board of Elections. The form shall be returned by the precinct officer to the county clerk who shall make the necessary change on the voter's registration record.*** [~~Any voter who changes his name shall indicate the change at the precinct on election day by signing an oath, in duplicate, on forms supplied by the state board, indicating the change. The oath shall be returned by the precinct officer to the county clerk, who shall retain the original oath for his records and send the duplicate to the state board.~~]

(4) ***The county clerk may petition the State Board of Elections for approval of a plan by which the clerk may make changes in voter addresses based upon the clerk's own knowledge of the change. If a voter's address is changed through a plan approved under this subsection, the clerk shall transfer the voter's registration record to the proper precinct and shall, within ten (10) days of the transfer, mail to the voter a notice of the address change which shall include the name and voting location of the voter's new precinct.*** [~~The clerk shall notify the state board of elections by the tenth of each month of all transfers of registration made by him, during the preceding month; and the clerk shall, within three (3) days following the closing of registration prior to an election, report all changes made since the previous report was filed.~~]

Section 7. KRS 116.095 is amended to read as follows:

The county clerk shall permit any citizen, at all reasonable hours, to inspect or make copies of any registration record, without any fee. He shall, upon request, furnish to any person a copy of the registration records, for which he ***may charge necessary duplicating costs not to exceed fifty cents ($.50) per page*** [~~shall receive the fee provided in KRS 116.105~~].

Section 8. KRS 116.112 is amended to read as follows:

(1) The state Board of Elections shall establish by administrative regulation a schedule to conduct a purge of ineligible and deceased voters in every even-numbered year beginning with the fiscal year which begins July 1, 1990. The purge shall be conducted as set forth in this section***, or by use of the United States Postal Service Address Information System (AIS)***.

(2) The State Board of Elections shall send to each registered voter, by first class mail, a notice of voter registration. The notice shall contain:

(a) The name of the voter; ***and***

(b) The voter's precinct[~~; and~~

~~(c) The location of the voter's polling place~~].

(3) The notice shall provide that it is not forwardable and shall be returned to the State Board of Elections if undeliverable.

(4) If the notice is returned by the postal service with information that the voter has moved or may

otherwise be ineligible to vote, the State Board of Elections shall forthwith mail to the voter who has moved a notice of intention to remove the voter's name from the voter registration list. This notice shall be forwardable ***and shall give the voter thirty (30) days to protest that he remains eligible to vote and should not be removed from the registration rolls. The expiration of this thirty (30) day notice shall not fall during a period when the registration books are closed for any primary or general election. The State Board of Elections' purgation notice shall contain a change of address form addressed to the county clerk of the county where the voter resides upon which the voter may request that his voter registration be transferred to his new address in the county or may request a hearing before the county board of elections to protest that he remains eligible to vote. Immediately upon mailing of the notices to a county, the State Board of Elections shall forward to the county clerk a list of all voters in the county to whom purgation notices were sent.***

(5) If the voter requests a change of address, in person or in writing, with the county clerk before the end of the thirty (30) day notice period, or if the voter files a protest before the end of the thirty (30) day notice period, he shall not be removed from the registration rolls of the county. All protests against removal shall be heard at the regular monthly meeting of the county board of elections next following the day upon which the thirty (30) day notice period expires.

(6) At the expiration of the thirty (30) day notice period, the county clerk shall remove from the registration rolls the names of all voters submitted to him by the State Board of Elections except those voters who have transferred their voter registration to their current residence address or who have filed a protest to be heard by the county board of elections.

[~~(5) If the voter notifies the State Board of Elections prior to the election that he remains eligible to vote within the county, his name shall not be removed from the voter registration list. However, if no satisfactory explanation is obtained, the voter's name shall be removed from the voter registration roll.~~]

Section 9. KRS 116.113 is amended to read as follows:

(1) Upon receipt of notification from the Cabinet for Human Resources of the death of a person, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains***, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election***.

(2) Upon receipt of notification from the circuit clerk that a person has been declared incompetent, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains***, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election***.

(3) Upon receipt of notification from the Administrative Office of the Courts that a person has been convicted of a felony offense, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains***, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election***.

(4) Following the purge of a name from the records of the State Board of Elections, the state board [~~of elections~~] shall notify the clerk of the county in which the voter lived of the action; and the county clerk shall within ten (10) days update the county voter registration files to reflect the necessary change. If a protest is filed by the voter, the county board shall hear it at its next regular monthly meeting. If the county board decides in favor of the protesting voter, ***the voter's registration record shall be restored, including his voting record. If the protest is filed while the registration books are closed and the county board decides in favor of the protesting voter, the county board shall issue the voter an "Authorization to Vote" for the upcoming election and the voter's record shall be restored when the registration books open following the election*** [~~his name shall not be purged, and the state board shall be notified of the action~~].

Section 10. KRS 116.125 is amended to read as follows:

(1) In addition to the biennial purge required by KRS 116.112, the county board of elections may, upon information known to it or furnished to it by any citizen, ***purge*** [~~delete~~] from the county ***registration rolls*** [~~register~~] the name of any voter who is no longer properly registered [~~and notify the voter by mail of its action~~]. ***Before purgation shall take place, the county board of elections shall mail to the voter a notice of intent to purge his name in thirty (30) days if no protest is filed by the voter. The end of the thirty (30) day protest period shall not fall within the time when the registration rolls are closed for any primary or general election. At the end of the thirty (30) days, if no protest has been filed, the county board of elections shall submit to the county clerk the name or names of voters to be purged and the clerk shall remove the name or names from the registration rolls of the county. If a protest is filed, the county board shall hear the matter at its next regular monthly meeting and the protesting voter's name shall not be removed from the registration rolls until the hearing is held.***

(2) If the hearing is held during the period when the registration books are closed and the board determines that the voter is not properly registered, the county board shall submit the name of the voter to the county clerk for purgation when the registration books open immediately following an election. The board shall also provide notice to the election officers in the precinct where the voter's name appears on the precinct roster that the board has ruled the voter ineligible to vote and shall not be permitted to vote unless the circuit court issues an order to that effect.

(3) All forms pertaining to the notice of purgation and the notice to the precinct election officers relative to ineligible voters shall be prescribed by the State Board of Elections [~~If no protest is filed by the voter within thirty (30) days, his name shall be purged. If a protest is filed, the county board shall hear the matter at its next regular monthly meeting and either retain or purge the voter's name. If any name is purged, the county board shall inform the state board of its action.~~

~~(2) If the name of any voter is purged from the county register as provided by subsection (1) of this section at such time that the registration period is closed for a particular election, and if the voter contends that actual notice of the deletion of his name from the register was not received, such voter shall be allowed to vote as provided by KRS 117.245~~].

Section 11. KRS 116.155 is amended to read as follows:

All forms pertaining to registration [~~and purgation~~] shall be prescribed and furnished by the State Board of Elections. The registration form shall include the voter's name; date of birth; Social Security number, if any; ***mailing and residence addresses, if different and telephone number*** [~~address~~]; and such other information as the State Board of Elections may deem necessary. No person [~~who fails to include his Social Security number~~] shall be denied the right to register because of ***the failure to include his Social Security number or telephone number*** [~~such failure~~]. All forms which require a voter's signature shall provide for verification by the signer thereof.

SECTION 12. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

In each county having within its boundaries a geographical area which has been ceded or leased to the government of the United States, the county clerk shall designate the precincts to which voters claiming Kentucky residence for voting purposes shall be assigned. If the ceded or leased territory extends beyond a single county, the county clerk in each county encompassing a part of the territory shall assign voters to the appropriate precincts. In making the assignments of absentee voters in any county that contains all or portions of more than one (1) congressional or state legislative district, any advantage shall be given to the district containing the largest territory.

Section 13. KRS 117.025 is amended to read as follows:

(1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including [~~such~~] legal counsel as [~~is~~] deemed necessary by the board.

(3) The [~~state~~] board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

[~~(b) Delete the name of any voter whose name is included in those purged by a county board of elections by reason of death and furnished to it by the county boards of elections. It shall further delete the name of any voter who is deceased or who is no longer qualified to vote in the precinct where currently registered as may be provided by law, or who has failed to vote at any primary or regular election for four (4) consecutive years. Such names shall be deleted between the dates of the general and primary elections. The State Board of Elections shall notify the county boards of elections and the voter of such action and the reason therefor, by the tenth (10th) of the month following such action, except when the voter was purged by reason of death;~~

~~(c) Enter names on the various registration rosters as they are reported by the county boards of elections;~~]

(b)[~~(d)~~] ***For each primary election,*** furnish each county clerk with a master list of all registered voters in the county, together with three (3) ***signature rosters*** [~~lists~~] of all registered voters in each precinct of the county ***according to party affiliation, and two (2) lists of all registered voters in each precinct of the county*** at least five (5) days prior to each ***primary*** election;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county

on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d)[~~(e)~~] Maintain all information furnished to the [~~state~~] board relating to the inclusion or deletion of names from the rosters for four (4) years;

(e)[~~(f)~~] Furnish***, at a reasonable price,*** the state central executive committee of each political party [~~at a reasonable cost~~] qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f)[~~(g)~~] Purchase, lease or contract for the use of [~~such~~] equipment [~~as may be~~] necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;

(g)[~~(h)~~] Secure information from any source which may assist the board in carrying out the purposes of this section;

(h)[~~(i)~~] Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable ***price.*** [~~cost, provided, however~~] The board shall not furnish precinct lists to persons who intend to use ***the*** [~~such~~] lists for commercial use.

Section 14. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the State Board of Elections, administer the election laws and the registration and purgation of voters within the county.

(2) The board shall consist of the county clerk, the sheriff and two (2) members appointed by the State Board of Elections not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed.[~~; provided, that~~] The first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976. ***The sheriff shall not serve on the board during any year in which he is a candidate, but shall recommend to the board a temporary replacement to serve in his place, subject to approval by the board. The county clerk may, at his option, continue to serve on the board during a year in which he is a candidate. If the clerk elects not to serve, he shall recommend a temporary replacement to serve in his place, subject to approval by the board. If the board rejects a replacement recommended by the sheriff or the county clerk, a new name shall be recommended until a temporary appointment is approved by the board*** [~~Where from any cause the county clerk or sheriff cannot act, the two (2) appointed members shall appoint a commissioner to serve during the period the county clerk or sheriff is ineligible. If the two (2) appointed members cannot agree on a substitute to function in place of the clerk or sheriff who becomes disqualified, such fact shall be certified to the state board within five (5) days and the board shall immediately appoint a person to serve during the period that such officer is ineligible~~]. Service on the board of elections shall be compatible with the holding of any other county office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, [~~not a candidate to be voted for at the elections~~] and shall not have been convicted of any election law offense. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two (2) political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party, shall be the one (1) authorized to submit the lists. Appointees may be removed by the State Board of Elections for cause. ***If*** [~~Where from any cause~~] an appointee is temporarily unable to act, a temporary appointee shall be named by the State Board of Elections. A temporary appointee shall serve until [~~such time as~~] the original appointee notifies the State Board of Elections that he is able to resume his term. Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his predecessor. Compensation and payment of actual expenses of members shall be set by the fiscal court ***either as an amount payable on an annual basis, or as an amount payable on a per diem basis of*** [~~at~~] not less than fifteen dollars ($15) ***nor more than one hundred dollars ($100)*** [~~per day~~] for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration

and ***may*** [~~is authorized to~~] make to the election officers such certifications as may be necessary. On ***election*** [~~said~~] days, appeals may be made to a circuit judge***, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.***

(5) In counties containing cities of the first and second class, the board ***may*** [~~shall~~] employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 15. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall ***in the manner prescribed by this section***, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election[~~, who shall hold their offices for one (1) year and until their successors are appointed~~]. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct***;*** except that***,*** in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each county political party chairman of the duties of the party.

(4) If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party.

(5) ***If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.***

(6) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems ***the*** [~~such~~] action is necessary.

(7)[~~(6)~~] The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the [~~state~~] board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(8)[~~(7)~~] An election officer shall be a qualified voter of the precinct***,***[~~;~~] except that***,*** where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister or child of a candidate who is to be voted for at the election. ***An election officer shall not have changed his voter registration party affiliation for two (2) years prior to his appointment.*** An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor***, except for emergency appointments made as provided in subsection (6) of this section.***

(9)[~~(8)~~] If the county board of elections fails to appoint election officers, or if any [~~such~~] officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(10)[~~(9)~~] Each election officer shall be paid a minimum of ***fifty*** [~~fifteen~~] dollars ***($50)*** [~~($15)~~] per day, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding ***the*** [~~said~~] election officers' pay, for each election in which the election officer serves, to be paid by the county. ***For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls or a flat fee if the fee equals or exceeds that amount.*** For delivering election returns, the ***two judges*** [~~sheriff and the judge of the opposite political party from the sheriff~~] shall receive in addition ***the mileage reimbursement provided for state employees*** [~~ten cents (10)~~] for each mile necessarily traveled from the place of voting to and from the place of delivery, ***or a flat fee if the fee equals or exceeds that amount. The fee paid to the two (2) judges for delivering election returns shall*** [~~to~~] be paid by the county.

Section 16. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election ***and prior to the close of normal business hours,*** he shall present to the clerk by mail or in person his ***application for an absentee ballot containing a*** verified statement that his inability to appear is due to age, infirmity, or illness[~~, and indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one~~]. Upon receipt of the ***application*** [~~verified statement~~], the clerk shall immediately mail to the voter ***an absentee*** [~~a special~~] ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. ***The*** [~~Such~~] ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished ***pursuant*** [~~subsequent~~] to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 17. KRS 117.077 is amended to read as follows:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for ***an absentee*** [~~a special~~] ballot. ***The*** [~~Such~~] application shall state that the emergency condition occurred within the seven (7) day period and ***shall*** [~~must~~] be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or [~~dependent~~] children of the voter. If the voter has no spouse, parents or [~~dependent~~] children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue ***an absentee*** [~~a special~~] ballot.

Section 18. KRS 117.085 is amended to read as follows:

(1) All requests for an application for ***an absentee*** [~~a special~~] ballot and all applications for ***an absentee*** [~~a special~~] ballot shall be transmitted only by mail or in person as specifically provided by this section. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no ***absentee*** [~~special~~] ballots shall be mailed to an address within the county except to those voters who regularly work outside the county during all hours the office of the county clerk is open. ***In the case of ballots returned by mail,*** the county clerk shall provide ***an absentee***[~~, but only by the method provided by this section, a special~~] ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for ***an absentee*** [~~a special~~] ballot as provided in this section and who is properly registered as stated in his application. Application for ***an absentee*** [~~a special~~] ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the [~~said~~] crime may, at any time not less than ***the close of normal business hours*** seven (7) days before the election, make application in person or by mail to the county clerk for ***an absentee*** [~~a special~~] ballot. [~~A single application shall entitle a voter who qualifies to receive two (2) ballots, as provided by this section, to receive both such ballots.~~] All requests for an application for ***an absentee*** [~~a special~~] ballot and all applications for ***an absentee*** [~~a special~~] ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for ***an absentee*** [~~a special~~] ballot to the voter who appears in person to request ***the*** [~~such~~] application, or shall mail ***the*** [~~such~~] application to a voter who requests ***the*** [~~such~~] application by mail. ***The*** [~~Such~~] application shall be restricted to use of the voter or the spouse, parents or [~~dependent~~] children of the voter; and

(b) Residents of Kentucky who are members of the armed forces, or dependents of members of the armed forces ***and overseas citizens***, may apply for an absentee ballot by means of the federal post-card application. ***The application*** [~~Such applications~~] may be used to register, re-register and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to ***the*** [~~such~~] application form upon receipt.

(c) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote by absentee ballot. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. The applications shall be restricted to the use of the voter only.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for ***an absentee*** [~~a special~~] ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application ***and qualifies to receive an absentee ballot***, he shall mail to the voter ***an absentee*** [~~a special~~] ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and ***it*** [~~same~~] shall be stamped by the postal service when the ballots are m

(4) Absentee [~~(a) Except as otherwise provided by this subsection, Special~~] ballots which are requested prior to the printing of ***the*** [~~such~~] ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of ***the printed*** [~~such~~] ballots; and ***absentee*** [~~special~~] ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of ***the*** [~~such~~] request[~~;~~

~~(b) At any general election at which names of candidates to federal office shall appear on the ballot, certain voters shall be mailed only one (1) ballot, which shall include the names of all candidates for which such voters are entitled to vote. Voters to receive only one (1) ballot shall be those voters who shall be:~~

~~1. Outside the fifty (50) states on the day of the election but whose request for a special ballot shall be received subsequent to the printing of the ballot containing the names of all candidates for which such voters are entitled to vote; and~~

~~2. Within the fifty (50) states on the day of the election; and~~

~~(c) At any general election for which separate ballots shall be printed for candidates for election to federal office, voters who shall be outside the fifty (50) states on the day of the election and who request a special ballot prior to the printing of the ballot containing the names of candidates exclusive of candidates to federal office, shall receive two (2) ballots. The first ballot shall contain the names of candidates to federal office, and the second shall contain the names of all candidates for which the voter is entitled to vote, exclusive of candidates to federal offices~~].

(5)[~~(4)~~] The clerk shall cause ballots to be printed ***fifty (50) days prior to*** [~~for~~] each primary or general election[~~:~~

~~(a) Each primary, fifty (50) days prior to the primary;~~

~~(b) Each general election:~~

~~1. Names of candidates to federal office and no others, fifty (50) days prior to the election;~~

~~2. Names of the remaining candidates, thirty-eight (38) days prior to the election; and~~

~~3. Names of all candidates, thirty-eight (38) days prior to the election~~].

(6)[~~(5)~~] The outer envelope shall bear the words "***Absentee*** [~~Special~~] Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7)[~~(6)~~] Any person who has received ***an absentee*** [~~a special~~] ballot but who knows at least seven (7) days before the date of the election that he shall be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his ***absentee*** [~~special~~] ballot and vote in person. He shall return his ***absentee*** [~~special~~] ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the ***absentee*** [~~special~~] ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent ***absentee*** [~~special~~] ballots, and the voter may vote in the precinct in which he is properly registered.

Section 19. KRS 117.086 is amended to read as follows:

(1) The voter ***returning his absentee*** [~~utilizing a special~~] ballot ***by mail*** shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who shall be absent from the county on election day, but who does not qualify to receive ***an absentee*** [~~a special~~] ballot by mail under the provisions of KRS 117.085 ***and all members of county boards of elections and precinct election officers qualified to vote by absentee ballot under the provisions of KRS 117.085, shall vote***[~~, may execute a special ballot~~] at the main office of the county clerk prior to the day of election. ***The clerk may provide for such voting by absentee ballot or may use the voting equipment in general use in the county either at the precinct or the equipment as may be used to tabulate absentee ballots, except as follows:***

(a) Any voter qualifying to vote in the clerk's office as provided by this subsection who receives assistance to vote shall use the typed inner and outer envelopes as required in subsection (1) of this section.

(b) Any voter qualifying to vote in the clerk's office as provided by this subsection whose qualifications are challenged by any clerk or deputy shall vote in the manner required in subsection (1) of this section and shall complete an "Oath of Voter" affidavit which shall be inserted in the outer envelope along with the inner envelope.

(3) If the clerk uses general voting equipment or absentee ballot tabulating equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office shall sign an "Absentee Ballot Signature Roster."

(4) The [~~county~~] clerk shall designate a location within his office where the ballots shall be cast secretly. In counties containing a city of the first or second class, the county clerk may establish locations other than his main office in which ***the*** [~~such~~] voters may execute ***their*** [~~special~~] ballots.[~~, provided that~~] Public notice of the locations ***shall be*** [~~is~~] given pursuant to KRS Chapter 424 and [~~that~~] similar notice by mail ***shall be*** [~~is~~] given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5)[~~(3)~~] The State Board of Elections shall ***promulgate*** [~~issue~~] administrative regulations to provide for casting ballots as provided in subsection (2) of this section.

(6)[~~(4)~~] The clerk shall deposit all of the returned ***absentee*** ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central ***absentee*** [~~special~~] ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. ***All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.***

(7)[~~(5)~~] The clerk shall keep a list of all persons who return their ***mail*** [~~voted~~] ballots ***or cast their ballots in the clerk's office***[~~,~~] and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of ***absentee*** [~~special~~] ballots cast in any election as a part of the official returns of the election.

Section 20. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent basis, any person voting by means of ***an absentee*** [~~a special~~] ballot as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) Any person who assists another person in voting by use of ***an absentee*** [~~a special~~] ballot shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all ***absentee*** [~~special~~] ballots shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the attorney general.

Section 21. KRS 117.0865 is amended to read as follows:

Any person who aids another in completing ***an absentee*** [~~a special~~] ballot shall not solicit or encourage that person to vote for or against any candidate, party, or issue. ***Any person who violates this section shall be guilty of a Class D felony.***

Section 22. KRS 117.087 is amended to read as follows:

(1) The challenge of ***an absentee*** [~~a special~~] ballot ***shall*** [~~must~~] be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the ***absentee*** [~~special~~] ballots. The board may appoint a central ***absentee*** [~~special~~] ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board ***shall*** [~~may~~] meet at the clerk's office to count the ***absentee*** [~~special~~] ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of ***absentee*** [~~special~~] ballots. The board shall open the boxes containing ***absentee*** [~~special~~] ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned ***absentee*** [~~special~~] ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of ***the*** [~~such~~] voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall [~~then~~] remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter is read aloud by the chairman, the vote of ***the*** [~~such~~] voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge [~~thereto~~] may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person*.*[~~;~~] but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the ***inner*** [~~outer~~] envelope shall not be opened, ***but returned to the outer envelope upon which*** [~~and~~] the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken [~~so as~~] to redistribute the ballots in the box. The board shall [~~then~~] open the ballot box, remove the ***absentee*** [~~special~~] ballots from the inner envelopes, ***and*** count ***the ballots*** [~~and record the special ballot votes on a form provided by the state board~~].

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office as provided for in KRS 117.086 and a total of all absentee ballots shall be made and recorded on the form provided by the State Board of Elections.

(7)[~~(6)~~] The county board of elections shall make public the ***absentee*** [~~special~~] ballot results after 6:00 p.m.

Section 23. KRS 117.145 is amended to read as follows:

(1) At least ***fifteen (15)*** [~~two (2)~~] days before any special election, and at least fifty (50) days before any primary ***or*** [~~, and at least thirty-eight (38) days before any~~] regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question

which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of [~~special~~] paper ***absentee*** ballots. The ***absentee*** [~~special~~] ballot shall be used for voting by absent voters; ***by precinct officers who have been assigned to a precinct other than their own; by members of a county board of elections;*** by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all ***absentee*** [~~special~~] ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election, the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary of the Finance and Administration Cabinet.

Section 24. KRS 117.195 is amended to read as follows:

(1) At least one (1) hour prior to the opening of the polls, the county clerk shall deliver each machine, with the operating device and mechanism and the device covering the registering counters securely locked, to the clerk of the precinct in which it is to be used, and shall take a receipt [~~therefor~~] indicating the distinguishing number of the machine. The clerk of the precinct shall cause the machine to be arranged in the voting place ***so*** [~~in such a manner~~] that the front of the machine, on which appear the ballot labels and the operating devices, will not be visible, when being operated, to any person other than the voter.

(2) ***In polling places in which machines for multiple precincts are located, the county clerk shall post a sign near each machine identifying the precinct for which the machine has been designated.***

(3) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall, at least one hour prior to the opening of the polls, deliver a sufficient number of ballots for the registered voters of each precinct, a sufficient number of voting booths for voting paper ballots, string, rubber stamps for marking "Spoiled" and "Unused" ballots and a locked ballot box for each precinct. The county clerk shall take a receipt for the number of ballots issued and the ballot box for each precinct. The county clerk shall retain the keys to all ballot boxes.

Section 25. KRS 117.205 is amended to read as follows:

Before permitting any person to vote on the day of the election, the election officers shall examine the machine to ascertain whether it has been operated since the counters referred to in subsection (10) and (11) of KRS 117.125 were set at zero, and to ascertain whether the ballot labels are arranged as specified on the printed instruction cards. If the machine indicates that it has been operated or if the ballot labels are not so arranged, the officers shall not unlock the operating device or mechanism, but shall immediately secure the attendance of ***the county clerk and*** one (1) ***member*** [~~or all of the members~~] of the county board of elections ***other than the county clerk***, who shall reset ***the*** [~~said~~] counters at zero and [~~then~~] relock the device covering the counters, or properly arrange the ballot labels, as the case may be, in the presence of the election officers. If the attendance of [~~such~~] members of the board of elections cannot be obtained before the opening of the polls or within one (1) hour thereafter, the election officers shall notify the county clerk of the foregoing facts and obtain from the county clerk a reserve voting machine, and [~~thereafter~~] proceed to conduct the election. Any reserve machine [~~so used~~] shall ***have been certified*** [~~be prepared~~] for use at the election by the county board of elections and ***prepared for use at the election by*** the election officers in ***the*** [~~such~~] precinct in the same manner as the original machine was prepared for the election [~~by the county clerk~~]. The machine found to have been so operated shall be returned immediately to the custody of the county clerk, whose duty it shall be to promptly repair same in order that it may be used as a reserve machine in the election if needed.

Section 26. KRS 117.215 is amended to read as follows:

(1) If, during the conduct of an election, a machine becomes in a state of disrepair so that it cannot be operated in a manner that will comply with the provisions of this chapter, the election officers shall lock or seal the machine in such a manner as to prevent further voting thereon and record the numbers shown by the public counter. Then the election officers shall secure from the county clerk a reserve voting machine,

which shall be prepared and made ready for use as provided in KRS 117.205, and thereupon proceed to conduct the election. When the polls are closed both the original and reserve voting machines shall be examined and the votes thereon registered shall be counted as provided in KRS 117.275 and the aggregate number of votes cast on both machines for each candidate and on each question shall be certified as the result of the election in that precinct.

(2) If an emergency should arise due to the malfunction of the voting machine, the county clerk shall provide a backup voting machine or ***supplemental paper*** [~~special~~] ballots for use at the precinct and a ballot box in which to deposit the voted ballots. The ballot box shall be locked with two (2) locks and the judges of the precinct shall each hold the key to one (1) lock. At the close of voting, the ballots shall be counted at the precinct or a central counting center and added to the votes cast by machine. The aggregate of these votes shall be certified as the result of the election in that precinct.

Section 27. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering [~~or exit polling~~] at the polling place or within a distance of five hundred (500) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a county wide basis a greater distance from the polling place within which electioneering may be permitted, but in no case shall electioneering [~~or exit polling~~] be allowed within five hundred (500) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. [~~Any person conducting exit polls on election day shall register with the county clerk not less than seven (7) days before the day of the election. The clerk shall give the exit poller a document showing that he has registered, and the exit poller shall carry that document with him at the polls on election day.~~] Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) The election sheriff, under the supervision of the precinct election judges, shall enforce the election laws and maintain law and order at the polls and within fifty (50) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

Section 28. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. All persons assisting a voter shall execute the voter assistance form.

(3) Upon making and filing with the judges ***the*** [~~such~~] oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall [~~then~~], in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of that employer, an officer or agent of that voter's union, or a candidate shall not assist the voter, nor shall a person assist more than two (2) voters on the date of any primary***,*** [~~or~~] regular or special election.

(4) The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall [~~then~~] enter the voting booth and the one [~~so~~] sworn shall operate the machine for the disabled or blind voter as he directs.

(5) Voters who require assistance on a permanent basis due to blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the ***county clerk who shall enter such certification on the voter's registration record. The*** State Board of Elections[~~, which~~] shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance permanently without signing voter assistance forms at the precinct..

(6) Voting booth shall mean an area in which a voter casts his vote which is designed ***to insure*** [~~in such a manner that~~] the secrecy of the vote [~~is insured~~]. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance[~~, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance~~].

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall [~~so~~] adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) [~~In elections for President and Vice President, if a voter is eligible to vote only for the office of president and vice president, a judge of the election shall adjust the machine so that the voter will only be able to vote for President and Vice President.~~

~~(12)~~] If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall [~~then~~] be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12)[~~(13)~~] The election sheriff shall be responsible for reporting violations of this section.

Section 29. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any person whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any voter utilizing ***an absentee*** [~~a special~~] ballot may write in a vote for any person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Two (2) election officers of opposing parties shall upon the request of any voter instruct such voter on how to cast a write-in vote.

(3) This provision does not apply to elections for President and Vice President of the United States where the vote is cast for presidential electors rather than the candidate, nor does it apply to elections for municipal offices conducted pursuant to KRS 83A.170.

Section 30. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any [~~such~~] precinct, any candidate and any representatives to witness and check the count of the votes therein, who are [~~hereby~~] authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever***,*** [~~or~~] mechanism ***or other device*** of the ***voting equipment*** [~~machine~~] so that the voting and counting mechanism will be prevented from operation, and they shall [~~then~~] sign a certificate stating:

(a) That the ***voting equipment*** [~~machine~~] has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting ***equipment*** [~~machine~~], which certificate shall be returned by the judges of election to the officials authorized by law to receive ***it*** [~~the same~~]. The judges shall [~~then~~] compare the number of voters, as shown by the counter of the ***voting equipment*** [~~machine~~], with the number of those who have voted as shown by the protective or accumulative counter or device***, if any.***

(3) ***Where voting equipment is used which does not print the candidates' names, lever numbers and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be:*** the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall [~~then~~] make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the ***counters*** [~~same~~], giving full view of all the counter numbers. The judges shall, under the scrutiny of ***the*** [~~such~~] representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the ***election officers*** [~~judges~~]. The total votes cast for each candidate, and for and against each question, [~~and the votes written in,~~] shall [~~then~~] be entered on the general and quadruplicate return sheets and statement. [~~There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.~~] ***The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.***

(4) [~~The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election.~~] If any ***officer*** [~~judge~~] shall decline to sign ***the*** [~~such~~] return, he shall state his reason [~~therefor~~] in writing, and a copy thereof, signed by him, shall be enclosed with ***the*** [~~such~~] return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the ***officers*** [~~judges~~] shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and ***the write-in roll, if any write-in votes were cast in the precinct*** [~~precinct list~~], shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. ***The*** [~~Said~~] envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes ***and write-in votes,*** the county board shall [~~immediately~~] mail the tabulation ***sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver*** [~~result, the general return sheets and~~] the precinct lists from each precinct to the State Board of Elections.

(5) As soon as possible after the completion of the count, the ***two (2) judges*** [~~election officers~~] shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority

of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The ***two (2) judges*** [~~sheriff and the judge from the opposite political party from the sheriff~~] shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in [~~such~~] a manner [~~as~~] to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 31. KRS 117.365 is amended to read as follows:

Upon the first day a grand jury convenes after a primary, general election or special election, the county clerk shall present to the grand jury all voter assistance forms and all applications for ***absentee*** [~~special~~] ballots which shall have been completed in the immediately preceding primary, general election or special election.

Section 32. KRS 117.375 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Electronic or electromechanical voting system" means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment.

(2) "Automatic tabulating equipment" means apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results.

(3) "Voting device" means either an apparatus in which paper ballots or ballot cards are used in connection with an implement by which a voter registers his votes with ink or other substance or by punching, or an apparatus by which such votes are registered electronically, so that in either case the votes so registered may be computed and tabulated by means of automatic tabulating equipment.

(4) "Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.

(5) "Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.

(6) "Ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, [~~a special ballot,~~] or a supplemental paper ballot which has been authorized for the use of voters in any primary, general or special election by the Secretary of State or the county clerk.

(7) "Voting punch device" means an apparatus in which ballots or ballot cards are inserted for the piercing of ballots by the voter. The hole may be in the form of a round dot, rectangle, square, or any other shape that will clearly indicate the intent of the voter.

(8) "Vote marking device" means any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

(9) "Secrecy envelope" means the envelope handed to the voter with his ballot into which the voter shall place his voted ballot cards.

(10) "Precinct ballot counter" means an automatic tabulating device used at the precinct to tabulate and process ballots.

(11) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting and recording his votes in an election.

Section 33. KRS 117.377 is amended to read as follows:

(1) The fiscal court of any county, or any urban county government, may acquire by purchase or lease or lease-purchase agreement or abandon any voting system covered by this chapter, ***if the*** [~~provided such~~] equipment has been approved by the State Board of Elections. The fiscal court shall notify the State Board of Elections that a new voting system is being installed in the county.

(2) The county ***clerk*** [~~board of elections~~] of any county may petition the State Board of Elections to allow a new voting system in the county if an emergency exists. The petition must state the reasons why the present equipment is inadequate. Within sixty (60) days of the receipt of the petition the State Board of Elections shall notify the county ***clerk*** [~~board of elections~~] whether the permission to obtain a new voting system is ***granted*** [~~approved~~] or ***denied*** [~~disapproved~~]. The letter of approval ***shall*** [~~must~~] be presented to the fiscal court for its approval before any new voting system is acquired.

Section 34. KRS 117.995 is amended to read as follows:

(1) ***Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years*** [~~Any person who violates any provision of this chapter, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both~~].

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for ***absentee*** [~~special~~] ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) nor more than five (5) years~~].

(3) Any officer who willfully [~~or neglectfully~~] fails to prepare or furnish ballot labels or ***absentee*** [~~special~~] ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for each offense, and in addition thereto may be confined in the county jail for not less than sixty (60) days nor more than six (6) months~~].

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(5) Any person who signs a name other than his own on an application for ***an absentee*** [~~a special~~] ballot or on the verification form for ***the*** [~~such~~] ballot, or any person who votes ***an absentee*** [~~a special~~] ballot other than the one (1) issued in his name, or any person who applies for ***the*** [~~such~~] ballot for the use of anyone other than himself or ***the*** [~~such~~] person [~~as shall be~~] designated by the provisions of this chapter, or any person who makes a false statement on an application for ***an absentee*** [~~a special~~] ballot shall be ***guilty of a Class D felony*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both~~].

(6) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day, after he has been duly notified of ***the*** [~~such~~] provisions by the sheriff of the election precinct, shall, for each offense, be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both~~].

(7) [~~Any person who shall have been selected to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections as provided in this chapter shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and shall be ineligible to serve as an election officer for a period of five (5) years.~~

~~(8)~~] Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate voter assistance form shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

Section 35. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and which cast at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) A "ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, [~~a special ballot~~] or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the secretary of state or the county clerk.

(4) "Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.

(5) "Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.

(6) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting and recording his votes in an election.

(7) The word "resident" used in reference to a candidate in a state, district, county or city election shall mean actual resident, without regard to the residence of the spouse of the candidate.

Section 36. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened at 6:00 a.m., prevailing time, and remain open continuously until 6:00 p.m., prevailing time. Any voter who is waiting in line at the polls to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided, however, that no vote shall be cast after 7:00 p.m. No voter who arrives at the polls after 6:00 p.m., prevailing time, shall be allowed to cast his vote.

(2) Any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, or prior to the day of election, be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of four (4) hours on the day he appears before the clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, during normal business hours of the office of the clerk or on the day of the election between the time of opening and closing the polls.

(3) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. Such person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employe may absent himself. No person shall refuse an employe the privilege hereby conferred, or discharge or threaten to discharge an employe or subject an employe to a penalty, because of the exercise of the privilege.

Section 37. KRS 118.045 is amended to read as follows:

(1) Every voting precinct on the day upon which any election is held shall, during voting hours, display an American flag of dimensions of ***reasonable size*** [~~no less than three (3) feet wide by four (4) feet long~~], which shall be firmly attached to the entrance of the voting precinct so that it will be readily visible to the general public.

(2) The precinct sheriff shall attach the American flag to the entrance of the voting precinct upon the opening of the polls on the election day and shall remove the same upon the closing of the polls.

(3) The fiscal court of every county shall purchase out of its general fund sufficient American flags for every voting precinct in that county.

Section 38. KRS 118.115 is amended to read as follows:

Except as provided in subsection (2)(b) of KRS 83A.045 governing vacancies in candidacy, candidates for unexpired terms to be filled at a regular election shall be nominated at the primary next preceding the regular election, if the vacancy occurred not less than ***one hundred thirty-four (134)*** [~~one hundred five (105)~~]

days before the primary. If the vacancy occurred less than ***one hundred thirty-four (134)*** [~~one hundred five (105)~~] days before the primary, the nomination shall be made in a manner determined by the governing authority of the political party concerned. In the preparation of ballots, candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.

Section 39. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the ***form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination. The notification and declaration shall include the*** following ***oath*** [~~form~~]:

[~~Notification and Declaration~~

~~Of~~ ____________________ ~~for nomination to the office of~~ ____________________~~.~~

~~To~~ ____________________ ~~(county clerk or Secretary of State, as case may be).~~

~~Commonwealth of Kentucky.~~

____________________ ~~County.~~]

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ____________________ Party, I, ____________________ (name in full as desired on the ballot), do solemnly swear that I reside at No. ____ street in the City of ____________________, State of Kentucky, and that I am a registered ____________________ (party) voter in ____________________ precinct, City of ____________________; that I believe in the principles of the ____________________ Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of ____________________ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

[~~I further solemnly swear that I am a bona fide candidate for nomination and am honestly seeking the office for which this notification and declaration is filed; that I expect to make a campaign for the nomination and am not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public; that I am in no sense a pretended, fictitious or "dummy" candidate and am not filing as candidate for the purpose of influencing or controlling or attempting to influence or control a selection of challengers or inspectors or officers of election; that it is my honest purpose and intention to be and remain a candidate through the primary election; that I have not been persuaded, urged, solicited, influenced or induced to file this notification and declaration by any person in furtherance of the interests of any other candidate.~~

____

~~(Signature of candidate)~~

~~Subscribed and sworn to before me by~~ ____________________~~, this~~ ____~~day of~~ ____________________~~, 19~~____~~.~~

____

~~(Signature of officer)~~

____

~~(Title of officer)~~

~~My commission expires~~ ____________________]

The declaration shall be subscribed and sworn to by the person making it[~~,~~] before an officer authorized to administer an oath.

(3) [~~At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the following form:~~

~~Commonwealth of Kentucky.~~

______________ ~~County.~~

~~We,~~ ______________ ~~and~~ ______________~~, do solemnly swear that we are qualified electors and members of the~~ ______________ ~~Party, and were affiliated with that party and supported its nominees at the last regular election; that we are residents and legal voters of the City of~~ ______________~~, County of~~ ______________~~, State of Kentucky; that we are personally acquainted with~~ ______________~~, who files the hereto attached notification and declaration, and we know him to be a discreet citizen and a member of the~~ ______________ ~~Party, and that to the best of our knowledge and belief he has affiliated with and supported that party as defined in the primary election law; that he is a resident of the city, county and state set out in his notification and declaration; that we believe him to be qualified to fill the office of~~ ______________~~; and that he is a bona fide candidate and not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public.~~

~~We do further solemnly swear that to the best of our knowledge and belief the said~~ ______________ ~~is in good faith a candidate for nomination for said office, and that he is not merely becoming a pretended, fictitious or "dummy" candidate for the purpose of influencing or controlling the selection of challengers, inspectors or officers of election for the benefit or in the interest of any other candidate or group of candidates.~~

____

~~(Signatures of affiants)~~

~~Subscribed and sworn to before me by~~ ______________ ~~and~~ ______________~~, this~~ ___ ~~day of~~ ______________~~, 19~~___~~.~~

____

~~(Signature of officer)~~

____

~~(Title of officer)~~

~~My commission expires~~ ______________

~~(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together.~~] When ***the notice and declaration has been*** [~~so~~] filed with the proper officer, and certified according to KRS 118.165, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4)[~~(5)~~] Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

Section 40. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters 83A and 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which ***the*** [~~such~~] papers are permitted to be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. [~~The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified.~~] If there is an error, the ***proper*** officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 41. KRS 118.212 is amended to read as follows:

(1) If, before the time of certification provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in writing, signed and properly notarized that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(2) If, before the ballots are printed, any candidate whose notification and declaration or certificate

or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the clerk shall not cause his name to be printed on the ballot.

(3) If, before the ballots are printed, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.

(4) If, after the ballots are printed, any candidate whose name appears thereon shall ***officially withdraw or*** die, ***neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate*** [~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot~~].

(5) If, after the ballots are printed, any candidate whose name appears thereon shall officially withdraw or die, the county clerk shall provide a notice to the precinct election officers who shall see that the notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notice required by this subsection and the precinct officers fail to post the notice at the polling place, the precinct officers shall be guilty of a violation subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 42. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. ***The*** [~~Such~~] names shall be certified as follows:

(a) Not less than ***ninety-eight (98)*** [~~eighty (80)~~] days before a primary;

(b) Not less than ***seventy-seven (77)*** [~~sixty-two (62)~~] days before a general election, ***the*** [~~such~~] certification to include only candidates to federal office; and

(c) Not less than ***seventy-seven (77)*** [~~fifty-seven (57)~~] days before a general election, ***the*** [~~such~~] certification to include all candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates whose nominating petitions are filed with the county clerk shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section ***shall*** [~~does~~] not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for ***the*** [~~such~~] city offices grouped according to the offices they seek, and ***the*** [~~such~~] candidates shall be immediately arranged with and designated by the title of office ***they*** [~~such candidates~~] seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which ***the*** [~~such~~] candidates are to be elected shall be clearly separated from other groups on the ballot and spaced so as to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not less than ***eighty-eight (88)*** [~~seventy (70)~~] days before the primary or ***sixty-five (65)*** [~~fifty (50)~~] days before the general election. The State Board of Elections shall meet within five (5) days of ***the*** [~~such~~] notice, review the ballot conditions and determine whether [~~or not~~] supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 43. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall [~~then~~] arrange the surnames of all candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***one hundred sixteen (116)*** [~~eighty-eight (88)~~] days before the primary or ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, ***one hundred sixteen (116)*** [~~eighty-eight (88)~~] days before the primary or ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 44. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2) and (3) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the ***absentee*** [~~special~~] ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(f) Successful nominees of all nonpartisan primaries which shall have been conducted;

(g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;

(h) Where a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If such ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to insertion in the proper ballot frames;

(i) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, where the certificate of nomination of such electors has been filed with the Secretary of State within the time prescribed in this chapter; [~~and~~]

(j) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210***; and***

(k) Candidates for city office for which no nonpartisan primary has been conducted in a city which requires nonpartisan city elections.

(2) Candidates for members of boards of education shall have their names printed on ballot labels and ***absentee*** [~~special~~] ballots for the regular election only after filing as provided in KRS 160.220.

(3) Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and ***absentee*** [~~special~~] ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(4) No county clerk shall knowingly cause to be printed, upon the ballot labels or ***absentee*** [~~special~~] ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in subsection (1) of KRS 118.315.

(5) The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.

(6) Whenever a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy.

Section 45. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(4), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class or to candidates participating in nonpartisan elections.

(2) ***The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters of the same political party affiliation from the district or jurisdiction from which the candidate seeks nomination.*** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the general assembly or commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. Each petitioner shall include his residence, Social Security number and post-office address.

Failure of a voter to include his Social Security number and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. [~~The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers are legally qualified, to vote for the candidate. Except for municipal, school board and supervisor of soil and water conservation district races, petition may designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.~~]

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

[~~(5) The state board of elections shall prescribe the forms for the petition.~~]

Section 46. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of President and Vice President of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a convention or primary election shall be in writing, shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States the certificate of nomination shall state the names of the candidates of the party for President and Vice President.

(3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of President and Vice President of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The ***form of the*** statement shall be prescribed by the State Board of Elections [~~to be subscribed and sworn to by the person making it, before an officer authorized to administer an oath, such form to include the name, place of residence, and the party and office for which he desires to become a candidate. Such statement shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath~~]. Such statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.

(5) In case of death, resignation or removal of any such candidate subsequent to nomination and before the ballot labels are printed, the chairman of the state, county or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of President and Vice President of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(6) If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the secretary of state and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the Secretary of State and county clerk.

Section 47. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. ***The*** [~~Such~~] certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for the holding of regular elections.

(3) [~~Statements of~~] Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file ***the*** [~~such~~] statements [~~as are~~] required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to ***one hundred six (106) days*** [~~three (3) months~~] before the general election[~~;~~] shall be filed [~~by such petitions~~] not later than ***ninety-one (91)*** [~~sixty-eight (68)~~] days prior to the general election.

(6) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than sixty-eight (68) days prior to the date fixed by law for the election of such electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 48. KRS 118.375 is amended to read as follows:

If [~~Where~~] a vacancy occurs in any elective office less than one hundred ***thirty-four (134)*** [~~five (105)~~] days before the primary or at any time after the primary, but not less than ***one hundred six (106) days*** [~~three (3) months~~] before the general election, independent candidates may file their petitions at the time and place provided for in KRS 118.365,[~~;~~] subject[~~, however,~~] to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).

Section 49. KRS 118.405 is amended to read as follows:

No candidate's name shall appear on any voting machine or ***absentee*** [~~special~~] ballot more than once, except that a candidate's name may appear twice if he is a candidate for a primary or a regular election and also a candidate to fill a vacancy in the same office required to be filled at a special election, when the special election to fill a vacancy is scheduled for the regular election day.

SECTION 50. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

A successful candidate in a special election held for the purpose of filling a vacancy in any elective office shall take office immediately upon certification of the election results by the State Board of Elections and administration of the oath of office.

Section 51. KRS 118.581 is amended to read as follows:

The State Board of Elections shall convene in Frankfort sixty (60) days prior to a presidential preference primary. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those [~~generally advocated and nationally recognized as~~] candidates of the political parties for the office of President of the United States ***who have qualified for matching federal campaign funds***. Immediately upon completion of this requirement, the board shall transmit a list of all ***the*** [~~such~~] nominees selected to the Secretary of State and shall also release the list to the news media.

Section 52. KRS 118.591 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of President of the United States [~~who has not been nominated by the State Board of Elections~~], or any group organized in this state on behalf of, and with the consent of, ***the*** [~~such~~] person, may file with the Secretary of State certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in the Commonwealth and are affiliated, by [~~such~~] registration, with the same political party as the candidate for whom petitions are filed.

(2) ***The*** [~~Such~~] petitions shall be filed by the petitioners with the Secretary of State no later than sixty (60) days prior to a presidential preference primary.

(3) The petitions ***shall*** [~~must~~] state:

(a) The name of the candidate for nomination and the party of which he is a member; and

(b) The name and address of the chairman of the group circulating such petition.

(4) The Secretary of State shall [~~forthwith~~] determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed ***the*** [~~said~~] petitions.

Section 53. KRS 118.601 is amended to read as follows:

(1) The Secretary of State shall [~~forthwith~~] contact each person who has been nominated by [~~the State Board of Elections or by~~] petition and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party[~~, provided that he:~~

~~(a) Deposits with the Secretary of State the sum required by KRS 118.611; and~~

~~(b) Forwards to the Secretary of State a notice of candidacy form, to be supplied by the Secretary of State, along with the written notification required by this section.~~

~~(2) Failure of a candidate to deposit the fee required by KRS 118.611 and to execute the notice of candidacy within fifteen (15) days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary~~].

(2)[~~(3)~~] The order in which the names of candidates for a presidential preference primary are to be printed on the ballot shall be determined by lot at a public drawing in the office of the Secretary of State at 2:00 p.m., standard time, forty-two (42) days before the presidential preference primary.

(3)[~~(4)~~] Not less than forty-one (41) days before the presidential preference primary is to be held, and after the order of the names has been determined as provided by subsection (3) of this section, the Secretary of State shall certify to each county clerk the name, place of residence and party of each candidate, as specified in the notice of candidacy forms or petitions filed with him and shall designate the device with which the candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential elections, followed by the political party which received the second highest number of votes.

Section 54. KRS 118.611 is amended to read as follows:

[~~(1)~~] Before any candidate's name is placed upon the official ballot by the Secretary of State for a presidential preference primary in the Commonwealth, the candidate ***shall remit to*** [~~must deposit with~~] the

Secretary of State ***a filing fee*** [~~the sum~~] of one thousand dollars ($1,000), which shall be ***non-refundable*** [~~refunded to the candidate by the Secretary of State if the candidate receives three percent (3%) or more of the total vote cast in the presidential preference primary of his political party.~~

~~(2) If the candidate fails to receive three percent (3%) or more of the total popular vote cast in the presidential preference primary of his party, the one thousand dollars ($1,000) deposit shall escheat to the Commonwealth and be placed in a special trust and agency fund to be used by the Secretary of State to defray election expenses~~].

Section 55. KRS 118.621 is amended to read as follows:

[~~(1)~~] The Secretary of State shall place the names of all candidates who have been nominated by [~~the State Board of Elections or by~~] petition [~~and who satisfy the requirements of KRS 118.601 and 118.611~~] on the official presidential preference primary ballot of their respective political parties. The Secretary of State shall additionally place on the ballot of each political party a ballot slot for voters to cast an "uncommitted" vote. This vote shall be entitled to the same proportionate representation as a candidate under KRS 118.641, but delegates representing these voters shall not be bound by the first ballot requirement of KRS 118.631.

[~~(2) If no presidential candidates nominated by the board or by petition meet the requirements of KRS 118.601 and 118.611, then no presidential preference primary shall be held in the Commonwealth.~~]

Section 56. KRS 118.740 is amended to read as follows:

A copy of a proclamation issued under KRS ***118.710 or*** 118.720***, or a writ of election issued under KRS 118.730*** shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least ***thirty-five (35)*** [~~twenty (20)~~] days before the election. [~~A writ of election issued under KRS 118.730 shall be forwarded by mail to the sheriff of each county in which the election is to be held, in sufficient time to enable~~] The sheriff ***of each county in which an election is to be held shall*** [~~to~~] give notice [~~of the election~~] at least ***thirty (30)*** [~~fifteen (15)~~] days before the day of election[~~, and no such writ shall be issued unless it will enable the sheriff to give such notice~~]. If, from any cause, the sheriff cannot properly act, he shall immediately hand the writ or proclamation to the person authorized to act in his place.

Section 57. KRS 118.770 is amended to read as follows:

When a writ of election ***or proclamation*** is issued to fill a vacancy ***as prescribed in KRS 118.710, 118.720 or 118.730,*** [~~in the office of member of the general assembly or the office of member of congress,~~] independent petitions and certificates of nomination may be filed ***twenty-eight (28)*** [~~ten (10)~~] days before the day of election, and if filed with the Secretary of State shall be immediately certified by him to the proper county clerks.

Section 58. KRS 118.995 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 118.136 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or confined in the county jail for not less than thirty (30) days nor more than ninety (90) days, or both~~].

(2) If the Secretary of State violates any of the provisions of subsection (4) of KRS 118.215, he shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(3) Any person who violates subsection (5) of KRS 118.176 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty dollars ($20) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than one (1) month nor more than six (6) months, or both, and may also be proceeded against for contempt~~].

(4) If any county clerk violates any of the provisions of subsection (4) of KRS 118.305 he shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

Section 59. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not less than one hundred ***nineteen (119)*** [~~twenty (120)~~] days before the day fixed by law for holding the primary election. ***The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination.*** The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

(3) The petition for nomination shall [~~state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall~~] be in the form prescribed by the State Board of Elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***one hundred sixteen (116)*** [~~eighty-eight (88)~~] days before the primary election.

(5) Not less than ***ninety-eight (98)*** [~~eighty (80)~~] days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, ***no drawing for ballot position shall be held and*** the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 60. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the regular election.

(2) Not less than ***seventy-seven (77)*** [~~fifty-seven (57)~~] days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1) ***of this section***, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The ballot position of a candidate shall not be changed after the ballot position has been designated

by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 61. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than one hundred ***thirty-four (134)*** [~~five (105)~~] days before the primary. If the vacancy occurs on or after the one hundred ***thirty-fourth*** [~~fifth~~] day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, and ***the*** [~~such~~] candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through ***(11)***[~~(14)~~] of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State at least ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by law for holding the regular election. ***The*** [~~Such~~] petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which ***the*** [~~such~~] papers are permitted to be filed.

(4) [~~The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy.~~] The petition ***for candidacy*** shall be in the form prescribed by the State Board of Elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***eighty-eight (88)*** [~~sixty-four (64)~~] days before the regular election.

(7) Not less than ***seventy-seven (77)*** [~~fifty-seven (57)~~] days before the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the ***absentee*** [~~special~~] ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 62. KRS 118A.150 is amended to read as follows:

(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.

(2) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.

(3) No county clerk shall knowingly cause to be printed on the ballot labels or ***absentee*** [~~special~~] ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.

(4) If, before the time of certification provided for in this chapter, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(5) If, before the ballots are printed, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.

(6) If after the ballots are printed, any candidate whose name appears thereon shall ***withdraw or*** die, ***neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate*** [~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot~~].

(7) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die, the county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation, subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 63. KRS 119.015 is amended to read as follows:

Any county clerk or deputy county clerk who falsely or fraudulently registers the name of any person, or permits any person to register knowing that ***the*** [~~such~~] person is not entitled to register, or who fails or refuses to deliver copies of the registration records to a person entitled thereto, [~~or to the proper election officers for use in elections,~~] shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years~~].

Section 64. KRS 119.025 is amended to read as follows:

[~~(1) In the case of registration outside of cities of the first class,~~] Any person who knowingly or fraudulently causes himself to be registered in more than one (1) precinct, ***or to be registered more than once,*** or in a precinct other than the one in which he is a legal voter, or who registers under any name other than his real name, or who gives a false address, or who in any manner causes himself to be registered when he is not legally entitled to register, [~~or who knowingly or fraudulently aids, abets, counsels or advises in the commission of any such act, shall be imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years.~~

~~(2) In the case of registration in cities of the first class, any person who knowingly causes himself to be registered in more than one (1) precinct, or to be registered more than once, or to be registered when he is not entitled to register,~~] or who makes a false oath as to his ability to read or write, or who ***knowingly or fraudulently*** aids, [~~or~~] abets, ***counsels or advises*** in the commission of any such act, shall be ***subject to***

the penalties prescribed for Class D felonies [~~fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years, or both~~].

Section 65. KRS 119.035 is amended to read as follows:

Any person who fraudulently or unlawfully alters any registration record, or fraudulently adds any name thereto, or willfully secretes, suppresses, mutilates or destroys any registration record, or makes or uses any false or fraudulent registration record, [~~shall, when such act occurs in connection with registration outside of a city of the first class, be imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years. When such act occurs in connection with registration in a city of the first class, such person,~~] and any person who aids or abets in the commission of such act, shall be ***subject to the penalties prescribed for Class D felonies*** [~~fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years, or both~~].

Section 66. KRS 119.045 is amended to read as follows:

Any person who attempts to or forcibly prevents any person from registering, or in any way unlawfully interferes with any person registering, or prevents or interferes with a clerk or registration officer in carrying out his duties with relation to the registration of voters, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than six (6) months nor more than twelve (12) months, or both~~].

Section 67. KRS 119.056 is amended to read as follows:

Any person in possession of nomination papers entitled to be filed under the statutes relating to primary elections who wrongfully alters, mutilates or suppresses such papers, or wrongfully fails to cause them to be filed at the proper time in the proper office, shall be ***guilty of a Class A misdemeanor*** [~~fined not more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both~~].

Section 68. KRS 119.065 is amended to read as follows:

Any person who forges the name of a signer to a nomination paper shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary for not less than two (2) years nor more than ten (10) years~~].

Section 69. KRS 119.076 is amended to read as follows:

Any county clerk who willfully and knowingly refuses or fails to have the name of any candidate printed upon the official ballot in the manner provided by law shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than three (3) years~~].

Section 70. KRS 119.095 is amended to read as follows:

Any printer of ballots, or person employed in printing ballots, who prints or permits to be printed any ballot in any other form than the one prescribed by law, or with any name or device placed, spelled or arranged thereon other than as authorized and directed by the county clerk, or who gives or delivers, or knowingly permits to be taken, any ballot by any person other than the county clerk for whom the ballots are being printed, shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary for not less than three (3) years nor more than ten (10) years~~].

Section 71. KRS 119.115 is amended to read as follows:

(1) Any unauthorized person found in possession of any key to a voting machine to be used or being used in any primary, general or special election shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) and imprisoned in the county jail for not more than six (6) months~~].

(2) Any person who, during or before any primary, general or special election willfully tampers with or attempts to tamper with, disarrange, deface or impair in any manner whatsoever, injures or destroys any ballot label, or destroys any such voting machine while in use at an election or at any other time, or who shall, after such machine is locked and sealed in order to preserve the record of the vote, tamper with or attempt to tamper with the record of the vote, or who aids or abets with intent to destroy or change the record of the vote shall be punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years.

(3) Any election official, or other person entrusted with the custody or control of any voting machine who, with intent to cause or permit any voting machine to fail to correctly register votes cast thereon, tampers with or disarranges such machine in any way, unlawfully opens such voting machine, prevents or attempts

to prevent the correct operation of such voting machine or causes such voting machine to be used or consents to its being used for any election with knowledge of the fact that the machine is not in order, or not perfectly set and adjusted to correctly register all votes cast thereon, or removes, changes or mutilates any ballot label on a voting machine shall be punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years.

Section 72. KRS 119.155 is amended to read as follows:

(1) Any person who unlawfully prevents or attempts to prevent any voter from casting his ballot, or intimidates or attempts to intimidate any voter so as to prevent him from casting his ballot, or who unlawfully interferes with the election officers in the discharge of their duties, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than five (5) years, for each offense~~].

(2) Any person who, by himself or in aid of others, forcibly breaks up or prevents, or attempts to break up or prevent, or obstructs or attempts to obstruct, the lawful holding of an election, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than one (1) year~~].

Section 73. KRS 119.165 is amended to read as follows:

(1) Any person who falsely personates a registered voter, and receives and casts a ballot by means of such personation, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than two (2) years, and shall forfeit his right to vote forever after~~]. An attempt at such personation shall ***constitute a Class B misdemeanor*** [~~be punished by a fine of not more than two hundred dollars ($200), and imprisonment in the county jail for not more than six (6) months~~].

(2) Any person who, by means other than falsely personating a registered voter, votes at an election in this state when he is a resident of another state or country, or votes more than once at an election, or knowingly votes or offers to vote in a precinct other than the one in which he resides, or votes by use of the naturalization papers of another person, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years~~]. Any person who lends or hires his or another's naturalization papers to be used for the purpose of voting shall be subject to the same penalty.

(3) Any resident of this state who, by means other than falsely personating a registered voter, votes at a regular or special election before he has resided in this state thirty (30) days, or in the county and precinct where the election is held the time required by law, or before he has attained full age, or before he has become a citizen, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100), or imprisoned in the county jail for not less than ten (10) days nor more than ninety (90) days, or both~~].

(4) Any person who, by means other than falsely personating a registered voter, votes in a primary election knowing that he is not qualified as provided in KRS 116.055, shall be fined one hundred dollars ($100) for each offense.

(5) Any person who applies for or receives a ballot at any voting place other than the one at which he is entitled to vote, under circumstances not constituting a violation of any of the provisions of subsections (1) to (4) of this section, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty dollars ($20.00) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than six (6) months, or both~~].

Section 74. KRS 119.195 is amended to read as follows:

(1) Any person who, during an election, knowingly and willfully removes or attempts to remove an official ballot from the election room, or has in his possession outside the election room any official ballot, either genuine or counterfeit, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than two (2) years nor more than five (5) years~~].

(2) Any voter who attempts to leave the election room with an official ballot in his possession shall at once be arrested on demand of either of the judges of election and shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(3) Any person who takes or removes in any manner, feloniously or with the consent or permission of the custodian, any official ballot from any place where it may lawfully be, or knowingly and willfully has in his possession or custody any such official ballot except as an officer or custodian under the law or while within the polling place for the purpose of voting, and any custodian or officer who permits any official ballot to be removed or carried away from the place where it may lawfully be by any person other than the officer or custodian whose duty it is to receive it, shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary, for not less than three (3) years nor more than ten (10) years~~].

(4) Any election officer, or other person entrusted with the custody or control of any official ballot, either before or after it has been voted, who in any way marks, mutilates or defaces any official ballot or places any distinguishing mark thereon, for the purpose of vitiating the official ballot, shall be fined not more than two thousand dollars ($2,000) and imprisoned in the penitentiary for not less than five (5) years nor more than ten (10) years.

(5) Any person who unlawfully destroys or attempts to destroy any official ballot box used, or any official ballot deposited, at any election, or who unlawfully, by force, fraud or other improper means, obtains or attempts to obtain possession of any ballot box or any official ballot therein deposited, while the voting at any election is going on or before the official ballots are duly taken out and counted according to law, shall be confined in the penitentiary for not less than one (1) year nor more than five (5) years, and fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000).

(6) Any election officer who mutilates or tampers with any of the seals, or destroys or removes any official ballots required to be preserved, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(7) Any county clerk who knowingly and willfully opens any ballot box and removes any official ballot therefrom, or removes, destroys or tampers with a ballot box and official ballots left in his care and custody, or permits any other person to do so, during the period the boxes are required to remain locked in his office, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(8) Any person who removes, mutilates or destroys, or adds any new official ballots to, the regular official ballots that have been counted and prepared for preservation, or that have already been preserved, so that the result of the election in the precinct or county is changed, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than three (3) years~~].

(9) Any person who tampers with or changes the official ballots, or opens the receptacles in which the official ballots are contained without the order of the court, after the ballots have been sent to the Franklin County courthouse in connection with the contest of a constitutional amendment, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than six (6) months nor more than one (1) year~~].

Section 75. KRS 119.205 is amended to read as follows:

(1) Any person who receives a bribe for his vote at an election, or for his services or influence in procuring a vote at an election, shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or be confined in the penitentiary for not less than one (1) nor more than five (5) years, or both, and shall be excluded from office and suffrage upon conviction.

(2) Any person who bribes, conspires to bribe another or assists to bribe another shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or be confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both, and upon conviction shall be excluded from office and suffrage.

(3) "Bribe," as used in this section, means any reward, benefit or advantage, present or future, to the person influenced or intended to be influenced, or to another at his instance, or the promise of such reward, benefit or advantage; it includes money or other thing of value given or lent to be wagered on the result of an election, or the promise thereof, or a bet with another that such other will vote for a named candidate, and the gift or promise of a share in any such bet made or to be made.

(4) Any person who receives money or other thing of value to be used for the purpose of procuring or influencing a vote shall be deemed to have been bribed.

(5) (a) Any candidate or person working on behalf of any candidate who knowingly makes payment to another or any person who receives payment from such candidate, or person for services rendered or goods furnished, including advertising, in excess of that normally charged for such services or goods, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both~~].

(b) No candidate or committee, or any person on their behalf, shall pay any person more than the reasonable value thereof for transporting voters to the polls on the day of an election. All such payments shall be by check and no portion of such payment shall be paid to any of the persons transported. Any person found guilty of a violation of this subsection shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both~~].

Section 76. KRS 119.225 is amended to read as follows:

Any member of a county board of elections who refuses to permit an inspector designated under KRS 117.275 and 117.315 to exercise free and full action in witnessing the count of the ballots, or interferes with the right of such an inspector to have a free and full opportunity to witness the count of the ballots, shall be guilty of a ***Class A*** [~~high~~] misdemeanor[~~, and shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), or imprisoned in the county jail for not less than six (6) months nor more than one (1) year~~].

Section 77. KRS 119.235 is amended to read as follows:

Any person who willfully alters, obliterates, secretes, suppresses or destroys a stub book, return or certificate of election, and any officer who makes, aids in making or authorizes the making of any false or fraudulent stub book, certificate of election or election return, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) year nor more than five (5) years~~].

Section 78. KRS 119.245 is amended to read as follows:

Any member of the state board of elections or of a county board of elections who willfully and knowingly violates any provision of the statutes relating to his duties, or fails to execute faithfully any of the duties imposed upon him by law, for which no other penalty is provided, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not more than sixty (60) days~~].

Section 79. KRS 119.255 is amended to read as follows:

Any person who, by threat of violence or in any other manner, intimidates or attempts to intimidate the election officers, the state board of elections or a county board of elections in the performance of their duty and any persons who conspire together and go forth armed for the purpose of intimidating said officers, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years~~].

Section 80. KRS 119.265 is amended to read as follows:

Any public officer who willfully neglects to perform a duty imposed upon him under the election laws, for which no other penalty is provided, or who willfully performs such duty in a way that hinders the objects of the election laws, shall be ***guilty of a Class B misdemeanor*** [~~fined fifty dollars ($50.00) and imprisoned in the county jail for two (2) months~~].

Section 81. KRS 119.325 is amended to read as follows:

Any person having the possession of any books, correspondence or papers of a corporation that may show or tend to show any violation of the provisions of KRS 121.025, or of KRS 121.045 or 121.055, or of subsection (1) of KRS 121.310, who refuses, when summoned by a grand jury, to produce such books, correspondence or papers, or to appear and testify concerning them or to give any other evidence material to the matter under investigation, shall be ***guilty of a Class A misdemeanor*** [~~proceeded against for contempt, and upon conviction shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year~~].

Section 82. KRS 132.017 is amended to read as follows:

(1) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district subject to recall as provided for in KRS 68.245, 132.023, 132.027 and 160.470, shall go into effect forty-five (45) days after its passage. If during the forty-five (45) days next following the passage of the order, resolution, or motion, a petition signed by a number of registered and qualified voters equal to ten percent (10%) of the voters voting in the last presidential election is presented to the county clerk or his authorized deputy[~~, or to the county fiscal court, district board of education, or legislative body of a city or urban-county government or other taxing district, as the case may be,~~] protesting against passage of the ordinance, order, resolution, or motion, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (2) of this section. ***When the*** [~~If such~~] petition is presented to the county clerk or his authorized deputy, ***the*** [~~such~~] officer shall immediately notify the presiding officer of the appropriate fiscal court, district board of education, or legislative body of a city or urban-county government or other taxing district, as the case may be. Each sheet of the petition shall contain the names***, residence*** [~~and~~] addresses ***and Social Security numbers or dates of birth*** of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. [~~The board or boards of registration in the county shall give necessary and appropriate aid to~~] The county clerk ***shall*** [~~so that such officer may~~] make the conclusive

determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(b) The county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending ***the*** [~~such~~] ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. ***The*** [~~Such~~] action by the county fiscal court, district board of education, legislative body of a city, urban-county government or other taxing district shall be valid only if taken within fifteen (15) days following the date of the presentation of the petition.

(2) (a) ***If*** [~~In the event~~] an election is necessary under the provisions of subsection (1) of this section, the county fiscal court or legislative body of a city, urban-county government or other taxing district shall cause to be submitted to the voters of the county, district, or urban county at the next regular election, the question as to whether ***the*** [~~such~~] property tax rate shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect.

(b) ***If*** [~~In the event~~] an election is necessary for a school district under the provisions of subsection (1) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than twenty (20) days nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether ***the*** [~~such~~] property tax rate shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect, and the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district, as the case may be. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) Notwithstanding any statutory provision to the contrary, ***if*** [~~in the event that~~] a city, county, school district or other taxing district has not established a final tax rate as of September 15, due to the recall provisions of KRS 68.245, 132.017, 132.027 or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by ***that*** [~~such~~] date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(4) ***If*** [~~In the event~~] a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(5) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

Section 83. KRS 160.477 is amended to read as follows:

(1) (a) Upon request of the board of education of any school district, the county ***clerk*** [~~board of elections~~] shall submit to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five cents (5) nor more than fifty cents (50) as requested by the board shall be levied on each one hundred dollars ($100) of property subject to local taxation. This tax levy shall be in addition to the maximum school tax levy provided by subsection (2) of KRS 160.470. The income from the tax shall be used for the purchase or lease of school sites and buildings and physical education and athletic facilities, for the erection and complete equipping of new school buildings and physical education and athletic facilities, for the major alteration, enlargement and complete equipping of existing buildings, and physical education and athletic facilities, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school improvements, for the purpose of providing maintenance and insurance for school facilities, and for the purpose of financing any program for the acquisition, improvement, or building of school improvements. The question shall be so framed that the voter may by his vote answer "for" or "against;"

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county ***clerk*** [~~board of elections~~], and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district; and

(c) If a majority of those voting on the question favor the special school building tax levy, the tax-levying authority shall, when the next tax rate for the district is fixed, levy the special rate specified for the school building fund in addition to the levy provided by subsection (2) of KRS 160.470.

(2) There may be included, in the maximum levy provided for in subsection (2) of KRS 160.470, a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and allow any balances to remain in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "special voted school building fund." The fund shall be kept in the depository selected by the district board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state*,*[~~;~~] provided, however, that such investment shall be approved by the State Board for Elementary and Secondary Education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section and shall be made in accordance with the school laws of the state at such times as the district board of education determines. The district board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the State Board for Elementary and Secondary Education.

(6) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (7) of this section, and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(7) Notwithstanding the limitations contained in subsection (6) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapters 58 and 162.

Section 84. KRS 160.597 is amended to read as follows:

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

(1) The order or resolution levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage. If, during the thirty (30) days immediately following the passage of the order or resolution, a petition signed by a number of registered and qualified voters equal to fifteen percent (15%), except in counties containing a city of the first class, equal to five percent (5%), of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the county ***clerk*** [~~board of elections~~] requesting that the order or resolution of ***the*** [~~such~~] tax be placed before the voters for approval, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. The person presenting the petition shall be given a receipt indicating the date of presentation. Each sheet of the petition shall contain the names, ***residence*** [~~and~~] addresses***, Social Security numbers, or dates of birth*** of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One (1) or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The county ***clerk*** [~~board of elections~~] shall make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution, and immediately [~~thereafter~~] shall notify the school board that the petition has been received and that the order or resolution levying ***the*** [~~such~~] tax will be placed before the voters for approval. The ***county clerk*** [~~board of elections~~] shall certify to the school board within thirty (30) days of receipt of the petition that the petition is properly presented and in compliance with the provisions of this section. If the ***county clerk*** [~~board of elections~~] finds the petition

to be invalid, it shall state in writing the deficiency of said petition. Written notification that the petition has been declared invalid and the deficiencies thereof shall be sent by certified mail to the person to whom a receipt was given by the ***county clerk*** [~~board of elections~~], and shall be published at least one (1) time in a newspaper of general circulation within the county containing the school district levying the tax, or if there be no such newspaper, shall be posted at the courthouse door. If good cause is shown, the ***county clerk*** [~~board of elections~~] shall permit the petitioners to correct the deficiencies either by securing additional valid signatures or by circulating a new petition, ***the*** [~~such~~] petition to be submitted to the ***county clerk*** [~~board~~] within thirty (30) days from the date of the written notification of the deficiencies.

(2) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county ***clerk*** [~~board of elections~~] shall submit the question to the voters of the school district at the next regular election or a called common school election, either of which is to be held not less than sixty (60) days from the date of the passage of the order or resolution. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district upon the question oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district upon the question favor its passage, the order or resolution shall go into effect in that district. ***If*** [~~In the event that~~] the election is to be held in more than one (1) school district within a county***,*** the votes shall be counted separately. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.

Section 85. KRS 162.080 is amended to read as follows:

(1) Whenever a board of education deems it necessary for the proper accommodation of the schools of its district to enlarge sites for school buildings, to purchase new sites, which in the case of independent districts may be not more than two (2) miles without the boundary lines of the district, to improve, remodel or restore school buildings, to erect or equip new school buildings, or for any or all of these purposes, and the annual funds raised from other sources are not sufficient to accomplish the purpose, the board shall make a careful estimate of the amount of money required for the purpose and shall determine the amount of money for which bonds shall be issued and the purpose to which the proceeds shall be applied. Upon request of the board of education of any district, the county ***clerk*** [~~board of elections~~] shall submit to the qualified voters of the district, the question as to whether bonds shall be issued for the purpose. The question shall be so framed that the voter may by his vote answer "for" or "against."

(2) The request shall be accompanied by an ordinance or resolution which shall fix the time the bonds shall run and, if a serial issue, the amount to mature at each time. It shall limit the rate of interest to be permitted on the bonds, which shall not exceed the amount permitted by law, and the total amount of bonds to be issued, and shall provide for the levy of a tax to pay the interest and to create a sinking fund to retire them at their maturity.

(3) The election shall be held not less than fifteen (15) nor more than thirty (30) days from the time the request of the board of education is filed with the county ***clerk*** [~~board of elections~~], and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

Section 86. KRS 242.020 is amended to read as follows:

(1) A petition for an election shall be signed by a number of constitutionally qualified voters of the territory to be affected, equal to twenty-five percent (25%) of the votes cast in the territory at the last preceding general election. The petition may consist of one (1) or more separate units, and shall be filed with the county clerk.

(2) The petition for election, in addition to the name of the voter, shall state also his ***residence*** [~~post office~~] address***, Social Security number or date of birth*** and the correct date upon which his name was signed.

(3) No signer may withdraw his name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for election without his authority, he may appear before the county judge/executive before the election is ordered and upon proof that his name was placed on the petition without his authority, his name may be eliminated by an order of the county judge/executive. When his name has been eliminated, he shall not be counted as a petitioner.

(4) After a petition for election has been filed, the county judge/executive shall make an order on the order book of the court directing an election to be held in that territory.

Section 87. KRS 242.070 is amended to read as follows:

Not more than twenty (20) days prior to an election, any group of citizens that in good faith favors or opposes the proposition to be submitted may file with the chairman of the county board of ***elections*** [~~election commissioners~~] a petition asking that it be recognized as the committee entitled to nominate election officers and to certify challengers, witnesses to the counting of the votes and certification of the results, and guards to assist in guarding the boxes containing the votes which have been cast during the period which the group desires. If more than one (1) group claims the right to nominate election officers and certify challengers, witnesses and guards, the county board of ***elections*** [~~election commissioners~~] shall promptly decide and publicly announce which committee is entitled to nominate officers and certify challengers, witnesses and guards. That decision shall not be final, but any aggrieved party may appeal to the county judge/executive, and upon hearing the county judge/executive shall determine which group shall be recognized.

Section 88. KRS 242.080 is amended to read as follows:

(1) The respective committees advocating and opposing the proposition shall each file with the chairman of the county board of ***elections*** [~~election commissioners~~] before the time designated for the selection of officers a list of not more than four (4) persons possessing the qualifications of election officers for each voting precinct, and the board of ***elections*** [~~election commissioners~~] shall appoint the officers from those lists, as provided in KRS 242.090.

(2) The committees may sign and issue certificates designating challengers at the polls, witnesses to the count of votes and guards to assist in guarding the boxes containing votes which have been cast, in the same manner as political committees under the general election laws.

Section 89. KRS 242.090 is amended to read as follows:

The county board of ***elections*** [~~election commissioners~~], not more than fifteen (15) and not less than ten (10) days before the day appointed for the holding of the election, shall appoint officers to conduct the election, in the manner provided by general election laws. It shall make equal division of officers between those favoring and those opposing the proposition instead of between political parties. The same equal division of challengers at the polls, of witnesses at the count, and of guards to guard the boxes, shall be made.

Section 90. KRS 242.110 is amended to read as follows:

The result of the election shall be certified by the county board of ***elections*** [~~election commissioners~~]. The certificate of the result shall be immediately filed with the county clerk and the county judge/executive shall have the certificate entered on the order book. The entry of the certificate, or an attested copy thereof, shall be prima facie evidence of the result of the election in actions under this chapter.

Section 91. KRS 83A.045 is amended to read as follows:

(1) Partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than ***one hundred nineteen (119)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

(c) A candidate for city office in a partisan election shall be prohibited from being a registered party candidate during a primary election and, if defeated in the primary, changing his registration to independent for the purpose of seeking the same office at the regular election for which he was defeated in the primary election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175 and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than ***one hundred nineteen (119)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forego conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (7), and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled[~~,~~] who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity or withdrawal of a candidate, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than ***ninety-one (91)*** [~~sixty-eight (68)~~] days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election and there are no remaining candidates running to fill the office for which a vacancy has occurred, the office shall remain vacant until after the regular election and if no person is elected to the office by write-in ballots at the regular election, the vacancy in office shall be filled temporarily by the officer or body designated by law to fill the appointment.

Section 92. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition ***of nomination which shall be in the form prescribed by the State Board of Elections*** signed by at least two (2) registered voters in the city. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. [~~The petition shall be in the following form:~~

~~"We the undersigned, qualified voters of the City of~~ ____________________ ~~request that the name of~~ ____________________ ~~be placed before the voters of the city as that of an applicant for nomination for the office of~~ ____________________ ~~at the primary election to be held in our city on the date prescribed~~

~~by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.~~

~~Name~~	~~Street Address~~	~~Social Security Number~~
		”

~~The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers.~~] No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no ***drawing for ballot position nor*** primary election shall be held for that office. If, in accordance with the provisions of this section, a primary election has not been held, candidates for nonpartisan city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall ***withdraw pursuant to KRS 118.212 or*** die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change; and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation[~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot~~].

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office

shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 93. KRS 83A.175 is amended to read as follows:

(1) Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred ***thirty-four (134)*** [~~five (105)~~] days before the primary. If the vacancy occurs on or after the one hundred ***thirty-fourth (134th)*** [~~fifth~~] day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are [~~such~~] offices to be filled, or if a fourth to sixth class city has not conducted a primary election pursuant to KRS 83A.045, the election to fill the regular term shall be conducted in the manner prescribed by this section.

(3) Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk, file with the county clerk a petition for candidacy. ***The petition shall be prescribed by the State Board of Elections and shall be*** signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, [~~then~~] he shall be counted as a petitioner for the candidate whose petition is filed first. [~~The petition shall be in the following form:~~

~~“We the undersigned, qualified voters of the City of ________ request that the name of ________ be placed before the voters of the city as that of a candidate for election for the office of ________ at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.~~

~~Name~~	~~Street Address~~	~~Social Security Number~~
		”

~~The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers.~~] No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall [~~not~~] be counted as valid ***only on the first petition filed*** [~~on any petition~~].

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(6) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk[~~,~~] dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(7) If, after the ballots are printed, any candidate whose name appears thereon shall ***withdraw pursuant to KRS 118.212 or*** die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation [~~the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot~~].

Section 94. The following KRS sections are repealed:

116.049 Voter registration card.

116.075 Registration application form - Report to state board; and

119.135 Election officer's failure to perform duty.

SB 117, AN ACT relating to voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened at 6:00 a.m., prevailing time, and remain open continuously until 6:00 p.m., prevailing time. Any voter who is waiting in line at the polls to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided, however, that no vote shall be cast after 7:00 p.m. No voter who arrives at the polls after 6:00 p.m., prevailing time, shall be allowed to cast his vote.

(2) ***As provided in Section 148 of the Constitution of Kentucky,*** any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, [~~or prior to the day of election,~~] be entitled to absent himself from any services or employment in which he is then engaged or employed for a ***reasonable time*** [~~period of four (4) hours~~] on the day he appears before the clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, during normal business hours of the office of the clerk or ***to cast his ballot*** on the day of the election between the time of opening and closing the polls. ***The employer may specify the hours during which an employee may absent himself.***

(3) ***No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote under circumstances which did not prohibit him from voting may be subject to disciplinary action within the discretion of his employer.***

(4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. ***The*** [~~Such~~] person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

The Committee Substitute to **SB 117** is as follows:

SB 117, AN ACT relating to voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened at 6:00 a.m., prevailing time, and remain open continuously until 6:00 p.m., prevailing time. Any voter who is waiting in line at the polls to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided, however, that no vote shall be cast after 7:00 p.m. No voter who arrives at the polls after 6:00 p.m., prevailing time, shall be allowed to cast his vote.

(2) ***As provided in Section 148 of the Constitution of Kentucky,*** any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, [~~or prior to the day of election,~~] be entitled to absent himself from any services or employment in which he is then engaged or employed for a ***reasonable time, but not less than*** [~~period of~~] four (4) hours on the day he appears before the clerk to request an application for or to execute ***an absentee*** [~~a special~~] ballot, during normal business hours of the office of the clerk or ***to cast his ballot*** on the day of the election between the time of opening and closing the polls. ***The employer may specify the hours during which an employee may absent himself.***

(3) ***No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote under circumstances which did not prohibit him from voting may be subject to disciplinary action.***

(4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. ***The*** [~~Such~~] person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

Calendar

HB 33, HB 46, HB 67, HB 70, HB 194, HB 259, HB 354, HB 369, HB 389, SB 126, SB 127, SB 128, HR 20, HCR 24, HCR 33 and **HCR 75** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 239, HB 289, HB 335, SB 9, HCR 31 and **HCR 48** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow floor privileges to Debbie Turner, Miss America, to address the House. Agreed.

Orders of the Day

HB 107, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Substitute to **HB 107**. Agreed.

Representative Blevins moved the adoption of Floor Amendment No. 3 to **HB 107**. Agreed.

Representative Blevins moved the adoption of Floor Amendment No. 4 to **HB 107**. Agreed.

Representative Blevins moved that **HB 107**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 7, 1990 roll call on **HB 107** - Appendix.)

HB 107, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 107**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 13, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to **HB 13**. Agreed.

Representative LeMaster moved that **HB 13**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 7, 1990 roll call on **HB 13** - Appendix.)

HB 13, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 13**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 43, with Committee Substitute, Floor Amendments and Committee Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved the adoption of Committee Substitute to **HB 43**. Agreed.

Representative Ward moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 43**.

Representative Overstreet moved that Floor Amendment No. 2 to the Committee Substitute to **HB 43** be laid on the Clerk's Desk.

On the roll call the vote was yeas 23—Adkins, Allen, Altman, Ballard, Cline, Crupper, Curtsinger, Cyrus, Hourigan, Jackson, Layman, Little, Mack, Maggard, Mason, Overstreet, Preston, Reinhardt, B. Richardson, P. Richardson, Siler, Strong, Walker. Nays 63—Ackerson, Ark, Arnold, Bentley, Blandford, Bronger, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Curd, Donnermeyer, Farrow, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Johnson, A. Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Long, Lyne, McBee, McElroy, Moberly, Morris, Mullinix, Nelson, Nett, Noe, Northup, O'Brien, Priddy, Rapier, Richards, Ridley, Riner, Scorsone, Sheehan, B.R. Smith, R. Smith, Stokes, Stumbo, Turner, Ward, White, Worthington, Yates, Zimmerman.

The motion that Floor Amendment No. 2 to the Committee Substitute to **HB 43** be laid on the Clerk's Desk was rejected.

Representative Ward moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 43**. Agreed.

Representative Ward moved that **HB 43**, by way of Committee Substitute as amended, be passed.

Representative Little moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 43**.

Representative Ward inquired whether Floor Amendment No. 3 to the Committee Substitute to **HB 43** was germane.

The Speaker ruled Floor Amendment No. 3 to the Committee Substitute was not germane to **HB 43**.

Representatives Little and Mason appealed the ruling of the Chair.

The Speaker Pro Tempore assumed the Chair.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Bentley, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Long, Lyne, Mack, Maggard, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, Ridley, Scorsone, Sheehan, Siler, B.R. Smith, R. Smith, Stokes, Strong, Stumbo, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman.

The ruling of the Chair was sustained.

The Speaker resumed the Chair.

Representative Little moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 43**.

On the roll call the vote was yeas 23—Adkins, Allen, Altman, Ballard, Bentley, Cline, Crupper, Cyrus, Hancock, Hourigan, Jackson, T. Jones, Layman, Little, Mack, Mason, Overstreet, Preston, Pritchett, Reinhardt, Scorsone, Strong, Stumbo. Nays 68—Ackerson, Ark, Arnold, Barrows, Blandford, Blevins, Bronger, Brown, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, Clarke, Curd, Curtsinger, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Jensen, Johnson, A. Jones, Keith, Kerr, Lear, Lefevers, LeMaster, Lewis, Lile, Long, Maggard, McBee, McElroy, Moberly, Morris, Mullinix, Nett, Noe, Northup, O'Brien, Priddy, Rapier, Richards, B. Richardson, Ridley, Riner, Sheehan, Siler, B.R. Smith, R. Smith, Stokes, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman.

Floor Amendment No. 4 to the Committee Substitute to **HB 43** was rejected.

Representative Ward moved that **HB 43**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 26. (See February 7, 1990 roll call on **HB 43** - Appendix.)

HB 43, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Ward moved that the vote by which **HB 43**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 253, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curtsinger moved the adoption of Floor Amendment No. 1 to **HB 253**. Agreed.

Representative Johnson moved that **HB 253**, as amended, be passed.

Representative Mason moved that **HB 253** be laid on the Clerk's Desk. Agreed.

HB 47, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of Committee Amendment No. 1 to **HB 47**. Agreed.

Representative McElroy moved that **HB 47**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 7, 1990 roll call on **HB 47** - Appendix.)

HB 47, as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 47**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Overstreet stated that the Title Amendment to **HB 43** was not adopted and inquired whether **HB 43** went to the Senate without the Title Amendment.

The Speaker responded in the affirmative.

HB 305 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 305** be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See February 7, 1990 roll call on **HB 305** - Appendix.)

HB 305 was passed and the title agreed to.

Representative McBee moved that the vote by which **HB 305** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 359 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HB 359** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 7, 1990 roll call on **HB 359** - Appendix.)

HB 359 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 359** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 538, by Representative Clarke: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

HB 539, by Representatives Lewis, Cyrus and Zimmerman: AN ACT relating to corrections officers.

HB 540, by Representative Ackerson: AN ACT relating to proceedings in death penalty cases.

HB 541, by Representatives Morris and Bruce: AN ACT relating to health care.

HB 542, by Representative Northup: AN ACT relating to child day-care.

HCR 109, by Representative Worthington: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of expediting legislator traffic between legislators' offices, committee rooms and chambers.

HCR 110, by Representatives Burch, Heleringer, P. Clark, Riner, Stokes, Johnson, Scorsone, Todd, Mack, Mason, Hatcher, Gray, Blevins, Moberly, Freibert, Overstreet and Donnermeyer: A CONCURRENT RESOLUTION establishing a Task Force on Involuntary Hospitalization.

HR 111, by Representative Kerr: A RESOLUTION honoring the National Parent Teachers Association and the Kentucky Parent Teachers Association.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Economic Development and Tourism: **HB 382, HB 417.**

Health and Welfare: **HB 510.**

Banking and Insurance: **HB 183, HB 410, HB 411, HB 413.**

Counties and Special Districts: **HB 366, HB 449, HB 493.**

Representative Lewis moved that the rules be suspended to withdraw the following Bill: **HB 131**. Agreed.

Representative Kerr moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Kerr moved the adoption of the following **HR 111**:

HR 111, A RESOLUTION honoring the National Parent Teachers Association and the Kentucky Parent Teachers Association.

WHEREAS, February 17, 1990, the National Parent Teachers Association observes its 93rd birthday; and

WHEREAS, the National Parent Teachers Association started in 1897 and now has 6,100,000 members; and

WHEREAS, the National PTA has 52 state groups and 26,000 local groups; and

WHEREAS, there are now 164,471 members of the Kentucky PTA and a record of 185,000 members is just around the corner; and

WHEREAS, at all levels this dedicated membership includes parents, teachers, students, principals, administrators, and others interested in uniting home, school, and community in behalf of children and youth; and

WHEREAS, the PTA bestows honors, sponsors annual legislative conferences, annual cultural arts competitions, and maintains resource centers, commissions, and publications; and

WHEREAS, this vital organization disseminates materials on crucial topics including parent education, the effect of television on children, drug and alcohol education, career education, and single parenting just to name a few;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body commends the PTA at every level for bringing the home and school closer for the welfare of all children.

Section 2. That the House of Representatives especially honors the Kentucky PTA for uniting efforts to secure the highest advantages for Kentucky's children.

Section 3. That the Clerk of the House transmit a copy of this resolution to the National PTA President, Ann Lynch and the Kentucky PTA President, Ginnie Maurer.

HR 111 was adopted by voice vote.

Representative Stumbo moved that **HB 197** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Johnson moved that **HB 253** be taken from the Clerk's Desk and placed in Regular Orders of the Day, February 8, 1990. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "nay" on **HB 329**. Agreed.

Representative P. Clark moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 107**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to **HB 65**, by Representative B. Smith:

Amend printed copy of **HB 65** on page 4, line 13, delete in its entirety;

line 14, delete the words "***herein but may also receive***"

line 23 through 26, delete in their entirety and insert in lieu thereof:

"Section 6. There is hereby appropriated from the General Fund to the Kentucky Heritage Land Conservation Fund one-million dollars ($1,000,000) for fiscal year 1990-91 and one-million dollars ($1,000,000) for fiscal year 1991-92."

Pages 5 through 8, delete in their entirety.

Floor Amendment No. 1 to **HCR 75**, by Representative Strong:

Amend printed copy of **HCR 75** on page 2, line 15, by adding after "Counties." the words: "The Legislative Research Commission, in making its appointments, shall ensure that at least one appointment is made from each of Kentucky's seven (7) congressional districts."

The Clerk announced the following meetings:

The Committee on Transportation, February 8, 1990 at 8:30 a.m.

The Committee on Education, February 8, 1990 at 10:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 8, 1990.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Lile, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 3—Bronger, Heleringer, LeMaster.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 8, 1990

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Edward H. Mesta, First Presbyterian Church, Winchester.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Ackerson.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 7, 1990 be dispensed with and the same approved. Agreed.

Representative Deskins moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Deskins moved the adoption of the following Legislative Citation No. 30. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates J. P. Blair.

This body salutes J. P. Blair and fellow team members of the Pikeville High School Panthers and their coaches for winning the A State Football Championship game.

You have bestowed great honor and pride upon your school for being the first and only team to have won three consecutive State Championships '87, '88, and '89. During this three year span you have accumulated an impressive 43-1 record.

These accomplishments could only be reached by dedication, hard work and a team effort.

This prestigious body joins Representative Herbie Deskins in saluting the Pikeville High School Panthers on this outstanding feat.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 187** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:07 p.m.)

HB 187 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 543, by Representative Clarke: AN ACT relating to revenue and taxation and declaring an emergency.

HB 544, by Representatives Blandford, Richards, Worthington, Stumbo, Rapier and O'Brien: AN ACT relating to administrative regulations and declaring an emergency.

HB 545, by Representatives Hourigan, Callahan and Hancock: AN ACT relating to fees for collection of insurance premium taxes.

HB 546, by Representative Callahan: AN ACT relating to alcoholic beverages.

HB 547, by Representative Callahan: AN ACT relating to disorderly premises.

HB 548, by Representative Kerr: AN ACT relating to motor carriers.

HB 549, by Representatives Crupper and Jackson: AN ACT relating to motor vehicle registration.

HR 112, by Representatives P. Clark, Priddy, Burch, Butler, Yates, L. Clark, Bronger, Gray, Hatcher, Casebier, Lile, O'Brien and Heleringer: A RESOLUTION urging President Bush and the Congress not to close the Louisville Naval Ordinance Station.

HR 113, by Representative Nelson: A RESOLUTION commemorating the Central City Golden Tide.

HR 114, by Representatives Kerr and K. Harper: A RESOLUTION adjourning in memory of Amy Lynn Casson, artist, honor student, and child of faith.

HR 115, by Representatives Adkins and Blevins: A RESOLUTION adjourning the House of Representatives in memory and honor of Charles Bradley.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 538**, **HB 539**.

Banking and Insurance: **HB 532**.

Business Organizations and Professions: **HB 527**, **HB 528**, **HB 536**.

Cities: **SB 181**, **HB 535**.

Counties and Special Districts: **SB 188**.

Education: **HB 529**.

Health and Welfare: **HB 541**, **HB 542**, **HCR 110**.

Judiciary: **HB 531**, **HB 537**, **HB 540**.

Natural Resources and Environmental Protection: **SB 190**, **SB 154**, **HB 526**, **HB 530**.

State Government: **HB 525**, **HCR 109**.

Transportation: **HB 533**, **HB 534**.

Report of Committees

The Committee on Rules reported **HB 65**, **HB 134** and **HB 270** have been posted for passage in Orders of the Day, February 9, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 9, 1990: **HB 239**, **HB 289**, **HB 335**, **HCR 31**, **HCR 48**, **SB 9**.

The Committee on Rules reported the following Bills have been recommitted:

Judiciary: **HB 196**.

Appropriations and Revenue: **HB 259**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Education: **HB 109**, **HB 352**.

Transportation: **HB 345**, **HB 467**, **HB 490**.

Economic Development and Tourism: **HJR 105**.

Report of Committees

The Committee on Business Organizations and Professions reported **HB 456** and **HB 472** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 456, AN ACT relating to landscape architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323A.040 is amended to read as follows:

(1) To obtain a license to practice landscape architecture in Kentucky an applicant must satisfactorily pass an examination as prescribed by the board, except as otherwise provided in this chapter.

(2) Every applicant for examination shall fulfill the following requirements:

(a) [~~Must be of good moral character; and~~

~~(b)~~] Must be at least twenty-one (21) years of age; and either

(b)[~~(c)~~] Must be a graduate of an accredited landscape architecture curriculum approved by the board with at least two (2) years of professional landscape architectural experience satisfactory to the board; or

(c)[~~(d)~~] Must be a graduate of an accredited high school or have had education equivalent thereto as determined by the board, and, in addition, at least seven (7) years varied landscape architectural experience under the supervision of a landscape architect registered under this chapter or other qualified person approved by the board. ***Applications for licensure under this paragraph shall be accepted until July 1, 1994. No further application shall be accepted after July 1, 1994, and licensing under this paragraph shall cease when all the candidates accepted shall meet the requirements for licensure.***

(3) Examinations shall be given at least annually, if qualified applicants have applied, the time and place to be established by the board.

Section 2. KRS 323A.050 is amended to read as follows:

[~~(1)~~] Any person who is a licensed landscape architect in another state or country where the qualifications prescribed at the time of licensing were, in the opinion of the board, equal to those prescribed in the Commonwealth at the date of application, may be granted a license without an examination.

[~~(2) Provided the application for a license to practice landscape architecture is made prior to one year after enactment of this chapter, the board, in lieu of examination of an applicant for license as a landscape architect, shall accept as satisfactory evidence of his competency and qualifications two years of actual, practical experience in landscape architectural work.~~]

Section 3. KRS 323A.070 is amended to read as follows:

Any applicant who fails to pass an examination ***section*** may, by paying an additional fee to be established by administrative regulation of the board, enter any subsequent examination held within three (3) years from the date of examination ***section*** he failed to pass. ***If an applicant fails to pass all sections of the prescribed examination within three (3) years, the previous examination sections passed by the applicant shall become null and void and the applicant shall be re-examined on all sections thereafter.***

Section 4. KRS 323A.110 is amended to read as follows:

(1) The board may refuse to renew or may suspend or revoke the license of any landscape architect to practice landscape architecture in the Commonwealth of Kentucky for any of the following reasons:

(a) Gross incompetency or gross negligence in planning or designing the development of land areas, as determined by the board;

(b) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;

(c) Conviction of a felony;

(d) Fraudulent or dishonest landscape architectural practice;

(e) Use of false evidence or misrepresentations in an application for license;

(f) Signing or affixing his seal to any plans, prints, specifications, or reports, which have not been prepared by him personally or under his immediate supervision***;***

(g) Failure to meet the continuing education requirements established by regulation of the board.

(2) The board shall revoke the license of a landscape architect who practices landscape architecture while his license is suspended.

Section 5. KRS 323A.170 is amended to read as follows:

Four (4) [~~At least three (3)~~] members of the board appointed by the Governor shall be landscape architects registered in the Commonwealth of Kentucky, and shall have been residents of this Commonwealth for at least five (5) years immediately preceding their appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. ***Each member shall serve for a term of three (3) years, and until his successor is appointed and qualified.***

Section 6. KRS 323A.210 is amended to read as follows:

(1) The board shall:

(a) Adopt and provide itself with a seal with a band inscribed, "State Board of Examiners and Registration of Landscape Architects of Kentucky" with the coat of arms of the state in the center;

(b) Make all necessary regulations concerning the contents and conduct of examinations, the method and time for filing applications for examinations and the time within which an applicant shall be examined after his application has been filed;

(c) Keep a complete record of its proceedings and an accurate list of all applications made, licenses issued and licenses revoked; [~~and~~]

(d) Make a general report including finances to the Governor annually***; and***

(e) Employ legal counsel or contract for legal services it considers necessary.

(2) The board may***:***

(a) Adopt regulations necessary to establish a program of continuing education for registrants under this chapter. Continuing education requirements shall be determined by regulation of the board, but they shall not exceed fifteen (15) clock hours per year.

(b) Adopt all reasonable regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of this chapter.

Section 7. The following KRS section is repealed:

323A.160 Board members — Appointment — Terms.

HB 472, AN ACT relating to licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.260 is amended to read as follows:

A distilled spirits and wine special temporary license ***or a special temporary wine license*** may be issued to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity therefor exists. This license shall authorize the licensee to exercise the privileges of a distilled spirits and wine retail drink licensee at designated premises for a specified and limited time, not in any event longer than thirty (30) days***; except that the special temporary wine license shall apply to wine sales only***. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee shall apply also to a special temporary licensee.

Section 2. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$1,500.00
(2)	Rectifier's license, per annum	$1,500.00
(3)	Blender's license, per annum	$1,500.00
(4)	Vintner's license, per annum	$ 500.00
(5)	Small winery license, per annum	$ 250.00
(6)	Wholesaler's license, per annum	$1,500.00
(7)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$ 600.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(e)	In all other counties	$ 200.00

(8) Retail drink license, per annum:	
(a) In counties containing cities of the first class	$ 800.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(d) In counties containing cities of the fourth class	$ 300.00
(9) Transporter's license, per annum	$ 25.00
(10) Dining car license, per annum	$ 50.00
(11) Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12) Special industrial alcohol license, per annum	$ 25.00
(13) Special nonindustrial alcohol license, per annum	$ 25.00
(14) Special agent's or solicitor's license, per annum	$ 20.00
(15) Special storage or warehouse license, per annum	$ 100.00

(16) Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).

(17) Special private club license, per annum	$ 150.00
(18) Special Sunday retail drink license	$ 300.00
(19) Nonresident, special agent or solicitor's license, per annum	$ 20.00
(20) Transport permit, nonresident license, per annum	$ 25.00
(21) Through transporter's license, per annum	$ 25.00
(22) Freight forwarder's license, per annum	$ 25.00
(23) Supplemental bar license:	
(a) In counties containing cities of the first class	$ 800.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(24) Restaurant wine license, per annum:	
(a) New applicants	$ 300.00
(b) Renewals	$ 200.00
(25) ***Special temporary wine license***	***$ 25.00***

(26) Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

The Committee Amendment No. 1 to **HB 472** is as follows:

Amend printed copy of **HB 472** on page 4, after line 13, by adding the following:

Section 2. KRS 242.185 is amended to read as follows:

(1) This section shall apply to any city of the fourth class ***or county containing a city of the fourth class*** in which prohibition is not in effect, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.

(2) Upon a determination by the legislative body that an economic hardship exists within the city ***or county*** and that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body

may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(3) Licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

(4) The city ***or county*** legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable ***administrative*** [~~rules or~~] regulations as may be necessary for the enforcement or administration of this section, provided that any [~~rules or~~] regulation adopted shall conform to the requirements of KRS 241.190.

(5) Notwithstanding any limitations imposed on the city's ***or county's*** taxing or licensing power by KRS 243.070, the city ***or county*** may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city ***or county*** for the estimated costs for any additional policing, regulatory or administrative related expenses. Such regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to any licenses or fees imposed by the city ***or county*** pursuant to KRS 243.070.

Section 3. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second, third or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second, third or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second, third or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and subsections (2), (4) and (6) of this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (4) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first or second class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food.

(5) (a) Any hotel, motel, restaurant operation, convention center or commercial airport which sells liquor on Sunday shall pay each of its employees wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)6. notwithstanding.

(b) No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

(6) Any city of the fourth class ***or county containing a city of the fourth class*** which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink as provided in KRS 242.185(1), may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by subsections (2) and (4) of this section. Such special licenses shall only be issued to those hotels, motels, inns or restaurants authorized to sell alcoholic beverages by the drink as provided in KRS 242.185(3). Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

The Committee on Cities reported **HB 19, HB 59** and **HB 365** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19, AN ACT relating to property taxation by cities, counties, special districts and urban county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.245 is amended to read as follows:

(1) [~~Notwithstanding any statutory provisions to the contrary, no county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced from application of the preceding year's tax rate to the preceding year's assessment.~~] The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of ***that*** [~~any such~~] county, [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) [~~The tax rate that a fiscal court could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced by it;~~

~~(b)~~] The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b)[~~(c)~~] The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the revenue cabinet upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon ***the*** [~~such~~] tax by the voters of ***that*** [~~any such~~] county, [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for [~~such~~] a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon ***the*** [~~such~~] tax by the voters of ***that*** [~~any such~~] county, [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for [~~such~~] testimony.

(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon ***a*** [~~such~~] tax by the voters of ***that*** [~~any such~~] county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, [~~such as the case may be,~~] as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance[~~, order, resolution, or motion~~] to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon ***a*** [~~such~~] tax by the voters of ***that*** [~~any such~~] county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted [~~such~~] a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 2. KRS 68.248 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a county fiscal court will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the county fiscal court may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from

real property[~~; however, in no event shall the tax rate levied by a county fiscal court applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective county fiscal court~~].

(2) The tax rate applicable to personal property levied by a county fiscal court under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 68.245(5) and to the recall provisions of KRS 68.245(6).

Section 3. KRS 68.510 is amended to read as follows:

[~~The general assembly of the commonwealth of Kentucky hereby finds and determines as a legislative finding of fact that as a result of "rollback" legislation codified as KRS 68.245, current income and revenues of counties in Kentucky have become relatively stabilized, and in many counties, particularly those containing urban areas, such income and revenues are inadequate to enable such counties to provide to the citizens thereof vital and necessary public service programs, even though the citizens of such counties may favor such programs and may favor the taxation necessary to finance them, within constitutional limits.~~] It is the intent of KRS 68.520 to 68.550 to provide to counties within the Commonwealth of Kentucky, subject to the provisions for election set forth in KRS 68.520 to 68.550, additional revenues for public service programs through voted levies of ad valorem taxes and license taxes.

Section 4. KRS 68.540 is amended to read as follows:

(1) If a majority of those voting on the question of any public service program approve such particular public service program, such particular public service program shall be adopted. The county clerk shall cause the question to appear before the voters, and the election results shall be canvassed and certified by the county board of election commissioners.

(2) If any public service program is approved by the electorate as herein provided, the specific tax so approved by the qualified voters in respect to such specific public service program shall be levied by the fiscal court in the manner provided by law, and such tax revenues shall be devoted solely to the public service program for which such specific taxes are levied. All such voted taxes shall be in addition to all other taxes otherwise authorized and provided by law[~~, and shall be deemed to be voted levies pursuant to KRS 68.245(1) not otherwise subject to the limitations contained therein~~].

Section 5. KRS 132.023 is amended to read as follows:

(1) [~~(a) Notwithstanding any statutory provisions to the contrary, no taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.~~

~~(b) In succeeding years, no taxing district other than the state, counties, school districts, cities and urban-county governments shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment, except for a taxing district which has been authorized to levy a tax and has not yet levied any such tax rate. In which case, the district can levy a tax rate, the maximum which will not produce more revenue than would have been produced by application of the maximum authorized tax rate in the year authorized to that year's assessments.~~

~~(2)~~] No taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection *(2)* [~~(3)~~] of this section.

(2)[~~(3)~~] (a) A taxing district, other than the state, counties, school districts, cities, and urban-county governments, proposing to levy a tax rate [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for [~~such~~] a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The taxing district shall advertise the hearing by causing to be published at least twice in two consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for [~~such~~] testimony.

(3)[~~(4)~~] (a) That portion of a tax rate levied by an action of a tax district, other than the state, counties, school districts, cities and urban-county governments which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, [~~such as the case may be,~~] as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The taxing district, other than the state, counties, school districts, cities and urban-county governments shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the taxing district has adopted [~~such~~] a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 6. KRS 132.024 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the taxing district, other than the state, counties, school districts, cities and urban-county governments, may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities and urban-county governments~~].

(2) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS ***132.023(2)*** [~~132.023(3)~~] and to the recall provisions of KRS ***132.023(3)*** [~~132.023(4)~~].

Section 7. KRS 132.027 is amended to read as follows:

(1) [~~(a) Notwithstanding any statutory provisions to the contrary, no city or urban-county government shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.~~

~~(b) In succeeding years, no city or urban-county government shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment.~~

~~(2)~~] No city or urban-county government shall levy a tax rate [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010 until the city or urban-county government has complied with the provisions of subsection *(2)* [~~(3)~~] of this section.

(2)[~~(3)~~] (a) Cities or urban-county governments proposing to levy a tax rate [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for [~~such~~] a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The city or urban-county government shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for [~~such~~] testimony.

(3)[~~(4)~~] (a) That portion of a tax rate levied by an action of a city or urban-county government which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, [~~such as the case may be,~~] as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The city or urban-county government shall, within seven (7) days following adoption of an ordinance[~~, order, resolution, or motion~~] to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the city or urban-county government has adopted [~~such~~] a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall, and

3. . The name, address and telephone number of the county clerk of the county or urban-county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 8. KRS 132.029 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a city or urban-county government will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the city or urban-county government may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a city or urban-county government applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective city or urban-county government~~].

(2) The tax rate applicable to personal property levied by a city or urban-county government under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.027***(2)***[~~(3)~~] and to the recall provisions of KRS 132.027***(3)***[~~(4)~~].

Section 9. KRS 67A.850 is amended to read as follows:

Urban-county government may:

Exercise ad valorem property taxing powers pursuant to the Kentucky constitution, section 157, to the limits authorized therein for the class of city to which the largest city in the county belonged on the day prior to the date the urban-county government became effective. The taxing powers must be exercised by the urban-county government consistent with the Kentucky constitution, section 172A, and KRS 132.010, 132.023 ***and*** [~~,~~] 132.027 [~~and 68.245~~]. Provided, in no way will this section and KRS 67A.860 allow an urban-county government to increase the taxes of any district without the urban-county government having first performed its obligations to provide services for such increases.

Section 10. The following KRS sections are repealed:

68.243 Inclusion of poll tax revenue in county budget.

68.247 Tax on motor vehicles and trailers to be used in determining maximum permissible county revenue.

68.249 Cumulative percentage increase in revenue from personal property tax by county for 1982-83 only — Limit — Tax rate not subject to public hearing and recall.

132.025 Cumulative increase for 1982-83 only by taxing district — Limit — Public hearing and recall not applicable.

132.0291 Cumulative increase for 1982-83 only by a city or urban-county government — Limit — Public hearing and recall not applicable.

Section 11. The provisions of this Act shall be effective for tax years with assessment dates on or after January 1, 1991.

HB 59, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.560 is amended to read as follows:

(1) In cities of the third class, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement***,***[~~;~~] and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement.

(2) In order to adjust retirement benefits to the purchasing power of the dollar, the board may annually order an increase in benefits paid pursuant to this section and KRS 95.550. The board may order an increase in benefits by any amount up to the increase in the consumer price index calculated pursuant to KRS 64.527, but in no case shall the annual increase exceed five percent (5%). The board may grant the first increase in 1990.

Section 2. KRS 95.624 is amended to read as follows:

(1) In cities of the third class, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement***,***[~~;~~] and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement. If this petition for retirement is denied, any policeman or fire fighter has the right of appeal in accordance with the Rules of Civil Procedure.

(2) The pension payable for periods of service between twenty (20) and twenty-five (25) years shall be fifty percent (50%) of salary plus two percent (2%) of salary for each year in excess of twenty (20). The pension

payable for twenty-five (25) years of service shall be sixty percent (60%) of salary. The pension payable for periods of service between twenty-five (25) and thirty (30) years shall be sixty percent (60%) of salary plus three percent (3%) of salary for each year in excess of twenty-five (25). The pension payable for thirty (30) years of service shall be seventy-five percent (75%) of salary.

(3) The pensions or benefits paid for disability or death from the policemen's and fire fighter's pension fund in cities of the third class shall be as follows:

(a) If any member of the police and fire department becomes temporarily totally disabled, physically or mentally, the board of trustees of the pension fund shall order paid to him monthly, during his disability, until he has recovered and returned to active duty a sum of not more than one-half (1/2) his salary per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period.

(b) If any member of the police or fire department becomes permanently disabled, physically or mentally, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty percent (50%) of his monthly salary at the time of his retirement.

(c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after one (1) year of service in the department and leaves a widow or a child under eighteen (18) years of age the board of trustees shall order a pension paid to the widow, while unmarried, of one-half (1/2) of salary per month and for each child until it reaches the age of eighteen (18) years, twenty-four dollars ($24.00) per month. If the deceased member was unmarried and childless, a pension shall be paid to his dependent father and mother of one-fourth (1/4) of salary per month. If one (1) parent is dead, the other shall receive the entire one-fourth (1/4) salary.

(4) In order to adjust retirement benefits to the purchasing power of the dollar, the board may annually order an increase in benefits paid pursuant to this section. The board may order an increase in benefits by any amount up to the increase in the consumer price index calculated pursuant to KRS 64.527, but in no case shall the annual increase exceed five percent (5%). The board may grant the first increase in 1990.

Section 3. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a penion fund for the benefit of employees under civil service, and may assess monthly such amount or percent of the salary of employees as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employee. The city legislative body shall contribute city revenues to the fund which shall be not less than the contributions of the employees.

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employees or their dependents to a pension or other benefit, and may provide a monthly allowance for employees eligible for a pension, not to exceed one-half (1/2) of the monthly salary of any employee at the time of his retirement.

(3) ***In order to adjust retirement benefits to the purchasing power of the dollar, the city may annually provide an increase in benefits paid pursuant to this section. The city may provide an increase of any amount up to the increase in the consumer price index calculated pursuant to KRS 64.527, but in no case shall the annual increase exceed five percent (5%). The city may grant the first increase in 1990.***

(4) When any city of the third class adopts an ordinance under this section for the creation of a pension fund, picks up employee contributions pursuant to KRS 65.155, or accepts from its employees a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employees, and the city and its employees shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance, except that employees, pursuant to subsection (4) of this section, may choose to participate in the county employees retirement system. A repeal of that ordinance by the city shall in no wise affect such employees unless by the mutual consent of the city and an employee or employees.

(5)[~~(4)~~] After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the county employees retirement system effective August 1, 1988. Any city which provided a pension plan for its employees on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the county employees retirement system. The board shall offer employees hired on or prior to August 1, 1988, membership in the county employees retirement system under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

HB 365, AN ACT relating to bids.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ***ten thousand dollars ($10,000)*** [~~seven thousand five hundred dollars ($7,500)~~] without first making newspaper advertisement for bids. Provided, however, that this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district.

The Committee Substitute to **HB 365** is as follows:

HB 365, AN ACT relating to bids.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ***ten thousand dollars ($10,000)*** [~~seven thousand five hundred dollars ($7,500)~~] without first making newspaper advertisement for bids. Provided, however, that this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district.

Section 2. KRS 45A.385 is amended to read as follows:

The local public agency may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed ***ten thousand dollars ($10,000) if*** [~~seven thousand five hundred dollars ($7,500), provided such~~] small purchase procedures are in writing and available to the public.

The Committee on Cities reported **HB 320** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 320, AN ACT relating to the reclassification of cities.

Whereas, satisfactory information has been presented to the General Assembly that the population of the city of Powderly, in Muhlenberg County, is such as to justify its being classified as a city;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Powderly, in Muhlenberg County, is transferred from the sixth to the fifth class of cities.

The Committee on Education reported **HB 256, HB 300** with Committee Substitute attached thereto, **HB 344, HB 424, HB 484** and **HJR 54** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 256, AN ACT relating to preschool education for exceptional children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) Effective with the 1991-92 school year, any child who has been identified as handicapped in accordance with Public Law 94-142 as amended by Public Law 99-457, or as exceptional by KRS 157.220 and corresponding regulations and who is three (3) or four (4) years of age, or who may become five (5) years of age after October 1 of the current year, shall be eligible for a free and appropriate preschool education and related services.

(2) The General Assembly shall provide funds to be used for preschool education programs and related services for handicapped children. Appropriations shall be separate from all other state funds appropriated to the Department of Education and shall be administered in accordance with applicable state statutes and regulations and Public Law 94-142 as amended by Public Law 99-457.

(3) Eligible local school districts shall receive funds based on the number of appropriately identified handicapped children being served on December 1 of the prior year, except during the 1991-92 school year funds shall be allotted based on the number of children being served on September 30, 1991. Local school districts may develop cooperative arrangements with other school districts or organizations in accordance with KRS 157.280.

(4) The State Board for Elementary and Secondary Education, upon the recommendation of the Superintendent of Public Instruction, shall adopt administrative regulations related to the administration and supervision of programs, eligibility criteria, personnel requirements and the use of funds.

Section 2. To carry out the purposes of this Act, there is appropriated to the Department of Education out of the general fund in the State Treasury the sum of twenty-three million dollars ($23,000,000) in fiscal year 1992.

HB 300, AN ACT relating to support services for families.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly recognizes that interagency collaboration and coordination of services is necessary in order that government-supported families with dependent children may successfully attain the goal of economic independence. The General Assembly further recognizes the importance of education for both parent and child as a means of breaking the intergenerational cycle of ignorance and poverty.

(2) In each county implementing the job opportunities and basic skills training program as established by the Family Support Act of 1988 (P.L. 100-485), there shall be an interagency family service coordinating council made up of representatives of the following interests:

(a) The mayor;

(b) Early childhood education;

(c) Child care services;

(d) The local school district;

(e) Vocational education;

(f) Higher education;

(g) Social services;

(h) Employment services;

(i) Health services;

(j) Mental health services;

(k) Transportation services;

(l) Housing services;

(m) The private industry council; and

(n) Representatives of the community serving the needs of families.

(3) The interagency family support services coordinating council shall be appointed by the county judge/executive who shall serve as chairman. The council shall meet as frequently as necessary to carry out its responsibilities but shall meet at least quarterly. The members' terms shall be concurrent with the term of the county judge/executive.

(4) The council shall be responsible for developing and implementing strategies to better coordinate and develop services designed to meet the educational, social, economic, health, transportation, and housing needs of government-supported families with dependent children, enabling them to become economically

independent. The council shall periodically review services being provided participants in the job opportunities and basic skills training program to ensure that families are receiving the necessary support services to be successful. The council shall also be responsible for resolving parent complaints.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The State Board for Elementary and Secondary Education shall establish a grant program to assist government-supported parents under the age of twenty-one (21) in obtaining their high school diploma through a secondary education program. The program shall be available for local school districts located in counties where a job opportunities and basic skills training program as authorized by the Family Support Act of 1988 (P.L. 100-485) is implemented.

(2) Each grant proposal shall include a plan for the following:

(a) Identifying and recruiting eligible participants;

(b) Assisting parents in finding child care for children under the age of three (3) if needed and providing early childhood education for three (3) and four (4) year old children of participants;

(c) Designing an educational program which meets the students' needs including parenting skills and participation in the regular secondary program to the extent possible; and

(d) Meeting the counseling and support needs of the parent.

(3) The grant application shall be reviewed and approved by the interagency family service coordinating council as established in Section 1 of this Act prior to submission to the State Board for Elementary and Secondary Education.

Section 3. KRS 158.360 is amended to read as follows:

(1) ***(a)*** The State Board for Elementary and Secondary Education shall authorize grants to selected local school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents.

(b)[~~(2)~~] Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills.

(c)[~~(3)~~] Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.

(d)[~~(4)~~] Only those parents who have a three (3) or four (4) year old child and do not possess a high school diploma or high school equivalency certificate shall be eligible.

(e)[~~(5)~~] Local education agencies shall be eligible for funds if the percentage of adults not graduating from high school exceeds fifty percent (50%) in the county or district ***or if the district is located in a county implementing the job opportunities and basic skills training program as established by the Family Support Act of 1988 (P.L. 100-485)***. Selection for grant awards shall be based on the educational need of the adult population and the incidence of unemployment in the county or district.

(f)[~~(6)~~] Each grant proposal shall include a plan for providing the following:

1.[~~(a)~~] Identification and recruitment of eligible participants;

2.[~~(b)~~] Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

3.[~~(c)~~] Transportation, lunch and free general education development testing for program participants;

4.[~~(d)~~] Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs; and

5.[~~(e)~~] Certification of the eligibility and enrollment of a minimum of ten (10) with a maximum of fifteen (15) parents with their children.

(2) (a) The State Board for Adult, Vocational Education and Vocational Rehabilitation shall establish a vocational parent and child education program in postsecondary vocational schools located in counties implementing the job opportunities and basic skills training program as established by the Family Support Act of 1988 (P.L. 100-485) where a need is established. Planning for the program shall be in cooperation

with the interagency family service coordinating council in each of the counties served. The first priority shall be serving the needs of families participating in the job opportunities and basic skills training program and then low income families.

(b) Parents in the program shall be instructed in vocational skills while their three (3) or four (4) year old child works with an early childhood specialist on developmental skills. Parenting skills and other planned structured activities involving parents and children shall be part of the curriculum.

(c) The program shall include the following:

1. Identification and recruitment of eligible participants;

2. Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

3. Related transportation; and

4. Instructional programs that promote vocational skills, equip parents to provide the needed support for the education and growth of their children; and prepare children for success in school.

The Committee Substitute to **HB 300** is as follows:

HB 300, AN ACT relating to support services for families.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly recognizes that interagency collaboration and coordination of services is necessary in order that government-supported families with dependent children may successfully attain the goal of economic independence. The General Assembly further recognizes the importance of education for both parent and child as a means of breaking the intergenerational cycle of ignorance and poverty.

(2) In each county implementing the job opportunities and basic skills training program as established by the Family Support Act of 1988 (P.L. 100-485), there shall be an interagency family service coordinating council made up of representatives of the following interests:

(a) The mayor;

(b) Early childhood education;

(c) Child care services;

(d) The local school district;

(e) Vocational education;

(f) Higher education;

(g) Adult education;

(h) Social services;

(i) Employment services;

(j) Health services;

(k) Mental health services;

(l) Transportation services;

(m) Housing services;

(n) The private industry council; and

(o) Representatives of the community serving the needs of families.

(3) The interagency family service coordinating council shall be appointed by the board of directors of the county's area development district as established in KRS 147A.050. The council shall be chaired by the executive director of the area development district or his designee. The designee shall be a member of the board. The council shall meet as frequently as necessary to carry out its responsibilities but shall meet at least quarterly. The members' terms shall be for four (4) years, and members may be reappointed.

(4) The council shall be responsible for developing and implementing strategies to better coordinate and develop services designed to meet the educational, social, economic, health, transportation, and housing needs of government-supported families with dependent children, enabling them to become economically independent. The council shall periodically review services being provided participants in the job opportunities and basic skills training program to ensure that families are receiving the necessary support services to be successful and shall make recommendations to appropriate state agencies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The State Board for Elementary and Secondary Education shall establish a grant program to assist government-supported parents under the age of twenty-one (21) in obtaining their high school diploma through a secondary or adult education program. The program shall be available for local school districts located in counties where a job opportunities and basic skills training program as authorized by the Family Support Act of 1988 (P.L. 100-485) is implemented.

(2) Each grant proposal shall include a plan for the following:

(a) Identifying and recruiting eligible participants;

(b) Assisting parents in finding child care for children under the age of three (3) if needed and providing early childhood education for three (3) and four (4) year old children of participants;

(c) Designing an educational program which meets the students' needs including parenting skills and participation in the regular secondary program to the extent possible; and

(d) Meeting the counseling and support needs of the parent.

(3) The grant application shall be reviewed and approved by the interagency family service coordinating council as established in Section 1 of this Act prior to submission to the State Board for Elementary and Secondary Education.

Section 3. KRS 158.360 is amended to read as follows:

(1) *(a)* The State Board for Elementary and Secondary Education shall authorize grants to selected local school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents.

(b)[~~(2)~~] Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills.

(c)[~~(3)~~] Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.

(d)[~~(4)~~] Only those parents who have a three (3) or four (4) year old child and do not possess a high school diploma or high school equivalency certificate shall be eligible.

(e)[~~(5)~~] Local education agencies shall be eligible for funds if the percentage of adults not graduating from high school exceeds fifty percent (50%) in the county or district *or if the district is located in a county implementing the job opportunities and basic skills training program as established by the Family Support Act of 1988 (P.L. 100-485)*. Selection for grant awards shall be based on the educational need of the adult population and the incidence of unemployment in the county or district.

(f)[~~(6)~~] Each grant proposal shall include a plan for providing the following:

1.[~~(a)~~] Identification and recruitment of eligible participants;

2.[~~(b)~~] Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

3.[~~(c)~~] Transportation, lunch and free general education development testing for program participants;

4.[~~(d)~~] Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs; and

5.[~~(e)~~] Certification of the eligibility and enrollment of a minimum of ten (10) with a maximum of fifteen (15) parents with their children.

(2) (a) The State Board for Adult, Vocational Education and Vocational Rehabilitation shall establish

a vocational parent and child education program in postsecondary vocational schools located in counties implementing the job opportunities and basic skills training program as established by the Family Support Act of 1988 (P.L. 100-485) where a need is established. Planning for the program shall be in cooperation with the interagency family service coordinating council in each of the counties served. The first priority shall be serving the needs of families participating in the job opportunities and basic skills training program and then low income families.

(b) Parents in the program shall be instructed in vocational skills while their three (3) or four (4) year old child works with an early childhood specialist on developmental skills. Parenting skills and other planned structured activities involving parents and children shall be part of the curriculum.

(c) The program shall include the following:

1. Identification and recruitment of eligible participants;

2. Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

3. Related transportation; and

4. Instructional programs that promote vocational skills, equip parents to provide the needed support for the education and growth of their children; and prepare children for success in school.

HB 344, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.240 is amended to read as follows:

Pupils attending the classes for moral instruction at the time specified and for the period fixed shall be credited with the time spent as if they had been in actual attendance in school***, and the time shall be calculated as part of the actual school work required by KRS 158.060. The pupil shall not be penalized for any school work missed during the specified time.***

Section 2. KRS 158.250 is amended to read as follows:

Any pupil who ***does not participate in*** [~~fails to take advantage of~~] the moral instruction shall remain in school during the time when the instruction is being given, ***and shall take non-credit enrichment courses or participate in educational activities not required in the regular curriculum, and that time shall be calculated as part of the actual schoolwork required by KRS 158.060. Students of different grade levels may be placed into combined classrooms in accordance with maximum class size allotments as described in KRS 157.360*** [~~but shall not receive any educational advantage over children receiving the moral instruction~~]. ***These courses or activities shall be supervised by certified school personnel and may include but are not limited to the following: study hall, computer instruction, music, art, library, physical education and tutorial assistance.***

HB 424, AN ACT relating to nonpublic colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any college that violates the provisions of KRS 164.947(3) shall be fined not less than one hundred dollars ($100).

(2) Each day that a college violates the provisions of KRS 164.947(3) shall be deemed a separate offense.

Section 2. KRS 164.945 is amended to read as follows:

As used in KRS 164.945 to 164.947, unless the context otherwise requires:

(1) "College" means any educational facility ***or institution*** maintained or conducted by any person, association, partnership, corporation, or trust and operating as an institute, junior college, college, university, or entity of whatever kind which awards a degree, diploma, or other statement of recognition purporting to indicate a level of collegiate attainment beyond secondary school graduation. The following shall be excluded from this definition as it applies to the licensing and regulation requirements of KRS 164.945 to 164.947:

(a) Colleges provided, operated, and supported by federal, state, or county government or any of their political subdivisions.

(b) Colleges licensed or approved for establishment and operation under the statutory authority given to the Kentucky Board of Barbering under KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists under KRS 317A.030, the Kentucky State Board of Business Schools under KRS 165A.310, the Kentucky Board of Nursing Education and Nurse Registration under KRS 314.121, and any statutes governing the proprietary schools.

(2) "Degree" means any academic or honorary title of designation, mark, appellation, series of letters, numbers or words, such as, but not limited to associate, bachelors, masters, doctorate, or fellow, which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study beyond the secondary school level.

(3) "Diploma" means a certificate, transcript, report, document, or title of designation, mark, appellation, series of letters, numbers, or words which signifies, purports, or is generally taken to signify attendance, progress, or achievement in an academic program.

Section 3. KRS 164.947 is amended to read as follows:

(1) The Council on Higher Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) [~~Immediately from March 25, 1972,~~] All colleges as defined herein shall be required to hold a license issued by the executive director of the Council on Higher Education under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education [~~provided that any college actually in operation on March 25, 1972, shall be permitted to continue in operation until a license has been issued or has been denied~~]. ***Within ninety (90) days of the effective date of this Act, all colleges shall be required to hold licenses.***

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 [~~or to such institutions which were in operation on March 25, 1972,~~] except that new branches, divisions, or additions to existing institutions shall be licensed.

HB 484, AN ACT relating to the official state high school speech league and tournament.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky High School Speech League, Inc. is named and designated as the official state high school speech league of Kentucky.

(2) The Kentucky High School Speech League, Inc. State Speech Tournament is named and designated as the official state high school state speech tournament of Kentucky.

HJR 54, A JOINT RESOLUTION directing the Council on Higher Education in conjunction with the university presidents to prepare and present to the Interim Joint Committee on Education a plan of action for their involvement in, and support of, the improvement of the public schools.

WHEREAS, the Kentucky Supreme Court has declared that the Commonwealth's system of public schools is unconstitutional and has directed that it be reconstituted; and

WHEREAS, several of Kentucky's universities can trace their origins to normal schools and later teachers' colleges; and

WHEREAS, the reforms being considered will result in a need for the development, implementation, and evaluation of new teaching and administrative techniques; and

WHEREAS, Kentucky's public universities have a long history of service to the public schools; and

WHEREAS, Kentucky's public universities have a major responsibility to train and retrain Kentucky's public school teachers and administrators; and

WHEREAS, the reforms being considered call for the development of new levels of expertise and competencies by local school personnel to promote increased student learning; and

WHEREAS, graduates of Kentucky's public schools are the primary clientele of our universities; and

WHEREAS, the leadership of higher education has recognized its responsibility to assist in the improvement of our schools and has offered its further assistance to the Task Force:

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Council on Higher Education in cooperation with the university presidents shall prepare a plan of action for higher education to assist in the improvement of Kentucky's public schools.

Section 2. That the plan of action shall include, but not be limited to, the appropriate role of each university in the reform effort based on each university's mission. This plan of action shall state how each university will bring the resources of its academic and administrative units to bear on the reform effort.

Section 3. That the plan of action shall include, but not be limited to, ways to encourage, recognize, and reward faculty and other appropriate university personnel for their participation in the reform effort and their continued involvement with the public schools.

Section 4. That the plan of action shall include a detailed implementation schedule and a statement of fiscal needs if necessary. The Council on Higher Education shall be directed to adjust the funding formula to recognize appropriate fiscal needs which may be required by an enhanced higher education role in the improvement of Kentucky's public elementary and secondary schools. If a formula adjustment is necessary, it shall be referenced in the implementation schedule and may be implemented in the following biennium

Section 5. That the Council on Higher Education shall present its plan to the Interim Joint Committee on Education no later than January, 1991.

The Committee on Judiciary reported **HB 82** with Committee Substitute attached thereto, **HB 245** with Committee Amendment attached thereto, **HB 247** with Committee Amendments attached thereto, **HB 272** with Committee Substitute attached thereto, **HB 287** with Committee Amendments attached thereto, **HB 310** and **HB 394** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 82, AN ACT relating to bulk transfers.

Be it enacted by the General Assembly of the Commonwealth of Kentuck1

Section 1. KRS 355.6-102 is amended to read as follows:

(1) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory (KRS 355.9-109) of an enterprise subject to this Article.

(2) A transfer of a substantial part of the equipment (KRS 355.9-109) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(3) ***An enterprise*** [~~The enterprises~~] subject to this Article ***is one*** [~~are all those~~] whose principal business is the sale of merchandise from stock, including ***a restaurant, cafe, tavern, hotel, club, school, hospital or other establishment that dispenses food, or any enterprise that manufactures*** [~~those who manufacture~~] what ***it sells*** [~~they sell~~].

(4) Except as limited by KRS 355.6-103 all bulk transfers of goods located within this state are subject to this Article.

The Committee Substitute to **HB 82** is as follows:

HB 82, AN ACT relating to bulk transfers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.6-102 is amended to read as follows:

(1) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory (KRS 355.9-109) of an enterprise subject to this Article.

(2) A transfer of a substantial part of the equipment (KRS 355.9-109) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(3) ***An enterprise*** [~~The enterprises~~] subject to this Article ***is one*** [~~are all those~~] whose principal business is the sale of merchandise from stock, ***and*** including ***a restaurant, cafe, tavern, and the food service operation of a hotel, club, or other establishment that dispenses food, or any enterprise that manufactures*** [~~those who manufacture~~] what ***it sells*** [~~they sell~~].

(4) Except as limited by KRS 355.6-103 all bulk transfers of goods located within this state are subject to this Article.

HB 245, AN ACT relating to fugitives from justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 440.090 is amended to read as follows:

When the governor of this state makes requisition upon the governor of another state for a fugitive from justice, the person named in the requisition as the agent of this state shall, unless a different condition is contained in his commission, be allowed as compensation from the state treasury for his services a mileage allowance at the same rate fixed by regulations adopted by the secretary of the executive department for finance and administration pursuant to KRS 44.060, plus an additional sum calculated at the rate of five cents per mile for the distance he travels to and from the jail of the county designated in the proclamation to the place where the fugitive is arrested, and any other necessary expenses he pays in reclaiming and returning the fugitive. ***When a fugitive is to be returned to this state from a location out of state which is in excess of five hundred (500) miles from the jail to which he is to be returned, commercial air transportation shall be utilized in lieu of ground transportation, unless the agent undertaking the transportation decides to utilize ground transportation. Payment for air transportation shall be in lieu of the mileage payment for ground transportation only for that portion of the journey for which air transportation is used. Ground transportation and other expenses shall be paid as authorized herein.*** If the agent is not given possession of the fugitive for reasons beyond the agent's control, he shall nevertheless be allowed the compensation prescribed by this section. Upon the return of the fugitive to the county in which the jail named in the proclamation is located, the person having him in charge shall go before a judge, who shall issue a mittimus to the jailer to receive the prisoner and keep him until he is discharged.

The Committee Amendment No. 1 to **HB 245** is as follows:

Amend printed copy of **HB 245** on page 1, line 19, to delete "***shall***" and to insert in lieu thereof "***may***"

HB 247, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 222.203 is amended to read as follows:

(1) A peace officer ***may*** [~~shall~~] make an arrest for a violation of KRS 222.202.

(2) Any peace officer who arrests a person for violation of KRS 222.202 shall take him to jail. ***A peace officer may issue a citation and may take the person to a shelter or other facility agreeing to care for the person. If the person is jailed,*** at the jail it shall be determined if the person has committed a previous offense under KRS 222.202.

(3) A citation shall be issued to such person showing thereon the date of such person's appearance in court and whether the offense is prepayable or not.

(4) Unless it has been determined that the defendant has had two (2) prior convictions for violation of KRS 222.202 within the previous twelve (12) months, the citation shall be marked as prepayable.

(5) If it is determined that this is a third or subsequent offense; then the provisions of KRS Chapter 431 with regard to bail and pretrial release shall apply.

Section 2. KRS 222.204 is amended to read as follows:

(1) A person who has been arrested and placed in jail prior to trial for violation of KRS 222.202 and has not had two (2) prior convictions in the previous twelve (12) months for violation of KRS 222.202 shall be released as set forth by the Supreme Court Rule of Criminal Procedure uniform schedule of bail:

(a) To an adult who is willing to accept responsibility for the defendant through a signature verification on a form determined by the administrative office of the courts;

(b) If he pays the requisite amount of bail on a bail schedule issued by the court;

(c) At such time as he is able to safely care for himself but in no event shall he be detained for more than eight (8) hours following his arrest;

(d) If he is ordered released by a court of competent jurisdiction; or

(e) Unless such person's release is precluded by other provisions of law.

(2) The jail*,* ***shelter or other facility agreeing to care for the person*** releasing the defendant shall be considered as acting in good faith and shall not be liable for subsequent acts of the defendant upon release.

The Committee Amendment No. 1 to **HB 247** is as follows:

Amend printed copy of **HB 247** on page 1, line 7, to delete "***or other facility***"; and

On page 2, line 20, to delete "*,*" following "jail" and "***or other facility***" and to insert "***or***" following "jail".

The Committee Amendment No. 2 to **HB 247** is as follows:

Amend printed copy of **HB 247** on page 1, line 4, to place a bracket "[" before the word "Any" and to strike through the remaining material on the line, and

On page 1, line 5, to place a bracket "]" following the word "jail." and to strike through the material before to the bracket.

HB 272, AN ACT relating to forfeiture and seized property and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.410 is amended to read as follows:

(1) The following are subject to forfeiture:

(a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state.

(b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(d) All substances, machinery or devices used for the manufacture, packaging, repackaging, or marking, and books, papers and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband.

(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter.

(f) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.

(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection.

(h) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it is proven beyond a reasonable doubt that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana.

(i) All books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this chapter.

(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds, including real and personal property, traceable to ***the*** [~~such an~~] exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent. It shall be a rebuttable presumption that all moneys, coin and currency found in close proximity to [~~forfeitable~~] controlled substances, to [~~forfeitable~~] drug manufacturing or distributing paraphernalia, or to [~~forfeitable~~] records of the importation, manufacture or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof ***shall be*** [~~is~~] upon claimants of personal property to rebut this presumption by clear and convincing evidence. The burden of proof ***shall be*** [~~is~~] upon the law enforcement agency to prove by clear and convincing evidence that real property is forfeitable under this paragraph.

(k) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this chapter excluding any misdemeanor offense relating to marijuana, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner.

(2) Title to all property, including all interests in the property, forfeit under this section vests in the Commonwealth on the commission of the act or omission giving rise to forfeiture under this section together with the proceeds of the property after the time. Any property or proceeds subsequently transferred to any person shall be subject to forfeiture and thereafter shall be ordered forfeited unless the transferee establishes in the forfeiture proceeding that he is a subsequent bona fide purchaser for value without actual or constructive notice of the act or omission giving rise to the forfeiture.

(3) If any of the property described in this section cannot be located; has been transferred to, sold to, or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value by any act or omission of the defendant; or, has been commingled with any property which cannot be divided without difficulty, the court shall order the forfeiture of any other property of the defendant up to the value of any property subject to forfeiture under this section.

Section 2. KRS 218A.415 is amended to read as follows:

(1) ***Personal*** property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any ***judge that is empowered to issue a warrant of arrest or search warrant and in whose jurisdiction the property is located*** [~~court having jurisdiction over the property~~]. Seizure ***of personal property*** without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property ***is subject to forfeiture pursuant to*** [~~was used or is intended to be used in violation of~~] this chapter.

(2) Property taken or detained under this section shall not be subject to replevin, but ***shall be*** [~~is~~] deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(3) Real property subject to forfeiture may be seized only pursuant to final judgment and order of forfeiture or upon order of the court having jurisdiction over the property. The order may be obtained pursuant to this subsection upon application of the Commonwealth.

(a) Upon receipt of the application, the court shall immediately enter an order setting a date for hearing on the matter no fewer than five (5) days nor more than ten (10) days after the filing of the application. At the hearing:

1. The court shall take evidence on the issues of whether the property named in the application is forfeit and seizure is necessary to preserve the property pending final judgment.

2. The Commonwealth shall have the initial burden of showing the existence of probable cause for forfeiture of the property and the necessity of seizure. On the showing by the Commonwealth, the respondent shall have the burden of showing by a preponderance of the evidence that the property is not subject to forfeiture.

3. Evidence at the seizure hearing may not be suppressed on the ground that its acquisition by search or seizure violated constitutional protections applicable in criminal cases relating to unreasonable searches or seizures.

4. If the court makes a determination in favor of the Commonwealth, it shall enter an order authorizing the seizure of the property.

5. The court may, in its discretion, permit the owner of the property to post security equal to the value of the property in lieu of seizure.

(b) A temporary seizure order pursuant to this section may be entered on application without notice or an opportunity for a hearing if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought is subject to forfeiture and the need to preserve the availability of property through immediate seizure outweighs the hardship that an immediate seizure may cause the owner. The temporary order shall expire ten (10) days after the date on which it is entered or at the time of the hearing provided for in paragraph (a) of this subsection.

Section 3. KRS 218A.420 is amended to read as follows:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court ***unless there is a legal use for them in which case they may be sold to a proper buyer***. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter, the law enforcement agency may, [~~with the approval of the trial court and~~] subject to the provisions of KRS ***218A.435*** [~~218A.430~~]:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be ***paid into the fund created in KRS 218A.435. Any sale shall be a public sale advertised pursuant to KRS Chapter 424*** [~~used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance, except as provided in KRS 218A.430, shall be paid to:~~

~~1. The county if the property was seized by the law enforcement agency of the county;~~

~~2. The city if the property was seized by the law enforcement agency of the city;~~

~~3. The state treasurer for the benefit of the Kentucky state police, except as provided in KRS 218A.430, if the property was seized by the Kentucky state police;~~

~~4. When money or property is seized in a joint operation involving more than one (1) law enforcement agency the division of the money and property among the seizing agencies shall be made by the trial court~~].

Section 4. KRS 67.592 is amended to read as follows:

(1) The county judge/executive shall designate the sheriff of the county, or, if there is a county police department, may designate the chief of the county police, as custodian of all property:

(a) Alleged to be or suspected of being the proceeds of crime; or

(b) Alleged to be or suspected of having been used to facilitate the commission of a crime; or

(c) Which is subject to confiscation or forfeiture, ***excluding property subject to forfeiture pursuant to KRS Chapter 218A***, or both, under any provision of the Kentucky Revised Statutes; or

(d) Which is taken from the person of a prisoner, except for such personal property as may be in the custody of a prisoner upon his admission to jail, [(]in which case all property which he is not permitted to retain upon admission to jail shall be placed in the custody of the jailer.[)]; or

(e) Which is lost or abandoned and taken into custody by any peace officer, or the courts; or

(f) Which is taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves.

(2) Any peace officer, except for the Kentucky State Police, or court having custody of ***the*** [~~such~~] property shall, as soon as practicable, deliver it into the custody of the property clerk.

(3) The sheriff or chief of county police designated as custodian of property shall appoint from persons on his staff, or may employ, a person to serve as property clerk and [~~such~~] other persons [~~as may be~~] necessary as deputy property clerks.

(4) All ***the*** [~~such~~] property shall be particularly described and registered by the property clerk, or his deputy, in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The property clerk shall advertise the property, if it is not the subject of a forfeiture proceeding, as to the amount and disposition of the property.

(5) The fiscal court of the county may prescribe regulations in regard to the duties of the property clerk and his deputies, and require security for the faithful performance of the duties imposed by this section.

(6) All animals stolen, strayed, lost or confiscated that come into the possession of the property clerk shall be sent to a public pound located within the county, if there is one, or if there is none to a public pound in another county.

(7) No property shall be delivered to the property clerk or his deputy except as provided in this section.

(8) No property shall be disposed of by the property clerk or his deputy except in the manner prescribed by law.

(9) The provisions of this section shall apply in all unincorporated areas of a county and in all cities which do not appoint a property custodian pursuant to KRS 95.845.

Section 5. KRS 218A.440 is amended to read as follows:

(1) Each law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, ***and with the secretary of justice containing***, a detailed listing of all money and property seized ***in that fiscal year*** and the disposition thereof. The listing shall identify all property so seized.

(2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The Attorney General shall institute civil actions for recovery of money or property obtained or retained in violation of this ***Act***[~~section~~].

(3) The Auditor of Public Accounts, the secretary of justice or the Attorney General may at any time initiate an inquiry to determine that any agency is utilizing proceeds from the fund established in KRS 218A.435 in accordance with law, or an inquiry to determine that property is being forfeited as required by this Act.

Section 6. KRS 218A.435 is amended to read as follows:

(1) There is hereby created a trust and revolving fund in the executive branch of state government ***to be known as the "asset forfeiture trust fund" herein referred to as the "trust fund".***

(2) The ***trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund*** [~~cabinet for human resources shall, in each fiscal year, receive the moneys deposited in the fund under 218A.430, with such moneys to be used solely for the purpose of drug and alcohol abuse education, prevention and treatment~~]. The moneys in this fund ***shall*** [~~are intended to~~] supplement any funds appropriated by the General Assembly to the ***agency which will receive disbursements from the trust fund***

as provided in this section [~~cabinet for human resources for drug and alcohol abuse education, prevention, and treatment efforts~~].

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of this Act.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.

(6) The Justice Cabinet shall, upon advice from the Office of Investment and Debt Management, determine, not later than May 1, the available trust fund balance for the next fiscal year and advise eligible agencies of the projected grant levels by June 1. Agencies receiving grants shall request authorization to expend additional funds as otherwise provided in KRS Chapter 48. Funds shall be withdrawn from the trust fund quarterly to maximize investment income unless an accelerated grant award is necessary for program administration.

(7) The balance of the trust fund following appropriations for costs associated with the administration of the fund shall be distributed as follows:

1. Forty-five percent (45%) of the funds received in any fiscal year shall be allocated to the law enforcement agency or agencies responsible for the seizure and forfeiture of the property pursuant to KRS 218A.410; and

2. Ten percent (10%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case; and

3. Twenty percent (20%) of the funds received in any fiscal year shall be allocated to the Cabinet for Human Resources to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment; and

4. Twenty percent (20%) of the funds received in any fiscal year shall be allocated to the Corrections Cabinet to be used solely for programs related to drug enforcement and incarceration; and

5. Five percent (5%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program related training materials, including manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for Human Resources, the secretary of the Corrections Cabinet, and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the disbursed funds shall be spent and the method for local entities to apply for those funds.

(9) On or after the effective date of this Act, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of disbursements from the trust fund, adopt policies which are in compliance with or which substantially comply with the model policy for forfeiture of assets by law enforcement agencies published by the Department of Criminal Justice Training. A state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On or after the effective date of this Act, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive disbursements from the trust fund, have one (1) or more officers currently employed attend asset forfeiture training as approved by the Kentucky law enforcement council which shall approve a curriculum of study for asset forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to KRS 218A.430 may be retained by the seizing agency for official use within its discretion. The seizing agency shall be required to pay any bona fide perfected security interest in the vehicle.

(12) Other provisions of this section notwithstanding, personal property forfeited pursuant to this chapter which was seized in a single transaction with a cumulative value of not more than twenty-five thousand dollars ($25,000), other than vehicles as provided for in subsection (11) of this section, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for general law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys shall supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.

(13) If money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the disbursement from the trust fund pursuant to subsection (7), paragraph 1., of this section, or pursuant to subsection (12) of this section, shall be divided among the agencies in such a manner as to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based.

SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

The following definitions apply in this Act unless the context otherwise requires:

(1) "Interest in property" includes:

(a) The interest of a person as a beneficiary under a trust, in which the trustee of the trust holds legal or record title of the personal or real property;

(b) The interest of a person or a beneficiary under any other trust arrangement under which any other person holds legal or record title to personal or real property for the benefit of the person; or

(c) The interest of a person under any other form of express fiduciary arrangement under which any other person holds legal or record title to personal or real property for the benefit of the person.

(d) Real property or an interest in real property shall be deemed to be located where the real property is located. Personal property or an interest in personal property shall be deemed to be located where the trustee is located, the personal property is located, or the instrument evidencing the right is located.

(2) "Forfeiture lien notice" means the notice provided for in Section 8 of this Act.

(3) "Property" means everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, easements, franchises, incorporeal hereditaments, or any interest therein.

(4) "Real property" means any real property located in the Commonwealth or any interest in real property, including any lease of, or mortgage upon, real property.

(5) "Trustee" includes:

(a) Any person acting as trustee under a trust in which the trustee holds legal or record title to personal or real property;

(b) Any person who holds legal or record title to personal or real property in which any other person has an interest; or

(c) Any successor trustee.

The term "trustee" shall not include an assignee or trustee for an insolvent debtor, a guardian under the uniform veterans' guardianship act, or an executor, administrator, administrator with will annexed, testamentary trustee curators, guardians or committees, appointed by, or under control of, or accountable to a district court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth shall have a lien on all property, real or personal, which is forfeit to the Commonwealth by virtue of KRS 218A.410. This lien shall not be defeated by gift, devise, sale, alienation or any means whatever except by sale to a subsequent bona fide purchaser for value without actual or constructive notice of the lien. The lien shall commence from the time the property becomes forfeit and shall have priority over any other obligation or liability following that time but shall be subordinate to any then existing perfected security interest on the property that is not itself subject to forfeiture.

(2) The Commonwealth may file on the official records of any one (1) or more counties a forfeiture

lien notice of the lien created in subsection (1) of this section. No filing fee or other charge shall be required as a condition for filing the forfeiture lien notice, and the appropriate clerk shall, upon the presentation of a forfeiture lien notice, immediately record it in the official records.

(3) The forfeiture lien notice shall be signed by an attorney authorized to institute a forfeiture action on behalf of the Commonwealth. The notice shall set forth the following information:

(a) A description of the property which is subject to the lien;

(b) The name of the owner of record of the property subject to the lien if known;

(c) The date and place of seizure or location of any property not seized but subject to forfeiture;

(d) The violation of law alleged with respect to forfeiture of the property;

(e) A reference to any judicial proceeding pending against the property with reference to forfeiture, including the name of the county or counties where the proceeding has been brought, and, if known at the time of filing of the forfeiture lien notice, the case number of the proceeding, and, the name of the defendant;

(f) The name and address of the attorney filing the forfeiture lien notice.

(4) The attorney filing the forfeiture lien notice shall, as soon as practicable after filing, furnish to any owner or lienholder of record either a copy of the recorded notice or a copy of the notice with annotation on it of the county or counties in which the notice has been recorded. Failure to provide a copy of the notice shall not invalidate or otherwise affect the lien.

(5) In conjunction with any forfeiture proceeding, an attorney representing the Commonwealth may file, without prior court order, in any county, a lis pendens under the provisions of KRS 382.440, and any person acquiring an interest in the subject real property or interest in it if the real property or interest is acquired subsequent to the filing of lis pendens, shall take the interest subject to any subsequent judgment of forfeiture.

(6) (a) A trustee who acquires actual knowledge that a forfeiture lien notice or a forfeiture proceeding has been filed against any property to which he holds legal or record title, shall immediately furnish to the attorney representing the Commonwealth the following:

1. The name and address of the holder of the beneficial interest in the property, as known to the trustee;

2. The name and address, as known to the trustee, of all other persons for whose benefit the trustee holds title to the personal or real property;

3. If requested by the attorney representing the Commonwealth, a copy of the trust agreement or other instrument under which the trustee holds legal or record title to the personal or real property.

(b) Any trustee who knowingly fails to comply with the provisions of this section is guilty of a Class D felony.

(7) Any trustee who knowingly transfers or conveys title to personal or real property for which a forfeiture lien notice has been filed at the time of the transfer or conveyance in the county where the personal or real property is located shall be liable to the Commonwealth for the greater of:

(a) The amount of proceeds received directly from the property named in the forfeiture lien notice as a result of the transfer or conveyance;

(b) The amount of proceeds received by the trustee as a result of the transfer or conveyance and distributed to the holder of the beneficial interest in the property named in the forfeiture lien notice; or

(c) The fair market value of the interest of the property named in the forfeiture lien notice transferred or conveyed;

but if the trustee transfers or conveys the personal or real property and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the discretion of the beneficiary or his designee, the trustee's liability shall not exceed the amount of the proceeds held for so long as the proceeds are held by the trustee.

(8) The Commonwealth may bring a civil proceeding in any Circuit Court against the trustee to recover from the trustee the amounts set forth in subsection (7) of this section, and the Commonwealth shall also be entitled to recover investigative costs and attorney's fees incurred.

(9) (a) The provisions of this section shall not apply to any transfer or conveyance by a trustee under a court order, unless the court order is entered in an action between the trustee and the beneficiary.

(b) Unless the trustee has actual knowledge that property is named in a forfeiture lien notice, this section shall not apply to:

1. Any conveyance by a trustee required under the terms of any trust agreement where the trust agreement is a matter of public record prior to the filing of any forfeiture lien notice; or

2. Any transfer or conveyance by a trustee to all of the persons who own a beneficial interest in the trust.

(10) The term of a forfeiture lien notice shall be for a period of six (6) years from the date of filing unless a renewal forfeiture lien notice has been filed, and, in such case, the term of the renewal forfeiture lien notice shall be for a period of six (6) years from the date of its filing. The Commonwealth shall be entitled to only one (1) renewal of the forfeiture lien notice.

(11) The attorney who filed the forfeiture lien notice may release in whole or part any forfeiture lien notice or may release any personal or real property or interest in it from the forfeiture lien notice upon the terms and conditions he determines. Any executed release of a forfeiture lien notice shall be filed in the official records of any county. No charge or fee shall be imposed for the filing of any release of forfeiture lien notice.

(12) If no court proceeding to obtain an order of forfeiture is pending against the property named in a forfeiture lien notice at the time of its filing, for purposes only of contesting the notice, it shall be treated as a seizure pursuant to KRS 218A.415.

(13) An agent of the Commonwealth shall have a continuing right to inspect property against which a forfeiture lien has been placed pursuant to this section and the Commonwealth shall have the authority to stay any civil foreclosure or repossession actions concerning property subject to the lien pending final order of forfeiture.

SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Jurisdiction in all forfeiture proceedings shall vest in the Circuit Court regardless of the value of property subject to forfeiture. Venue in the actions shall be in the circuit where the property was seized or is located or the circuit in which any criminal prosecution against the owner of the property is pending.

(2) Following conviction of a defendant for any violation of KRS Chapter 218A, the court shall conduct an ancillary hearing to forfeit property if requested by any third party. The Commonwealth's attorney shall initiate the hearing by filing a motion requesting entry of a final order of forfeiture upon proof that the property was being used in violation of the provisions of this chapter. The final order of forfeiture by the court shall perfect in the Commonwealth or appropriate law enforcement agency, as provided in KRS 218A.435, right, title and interest in and to the property. The Commonwealth may transfer by deed of general warranty any real property forfeited.

(3) If the property subject to forfeiture is of a type for which title or registration is required by law, or if the owner of the property is known in fact to the Commonwealth at the time of the hearing, or if the property is subject to a perfected security interest in accordance with the Uniform Commercial Code, KRS Chapter 355, the Commonwealth's attorney shall give notice of the ancillary hearing by registered mail, return receipt requested, to each person having an interest in the property, and shall publish notice of the forfeiture once each week for two (2) consecutive weeks in a newspaper of general circulation as defined in KRS Chapter 424 in the county where the forfeiture proceedings will occur. The notice shall be mailed and first published at least four (4) weeks prior to the ancillary hearing and shall describe the property; state the county, place and date of seizure; state the name of the law enforcement agency holding the seized property; and state the name of the court in which the ancillary hearing will be held and the date of the hearing. However, the Commonwealth shall be obligated only to make a diligent search and inquiry as to the owner of subject property; and if after diligent search and inquiry the Commonwealth is unable to ascertain such owner, the actual notice requirements by mail shall not be applicable.

(4) Unless otherwise expressly provided in KRS 218A.415, the burden shall be upon claimant to property to prove by preponderance of the evidence that it is not subject to forfeiture. Any claimant other than a person who holds title or registration to the property or who has a perfected security interest in the property shall be required to post a bond equivalent to ten percent (10%) of the appraised value of the property with the clerk of the court before being allowed to litigate the claim. The bond shall offset the costs of litigation incurred by the Commonwealth. A claimant may proceed in forma pauperis with leave of court upon sworn petition subject to the applicable rules and subject to the provisions of law concerning perjury.

(5) Any property subject to forfeiture prior to the effective date of this Act shall be forfeited pursuant to the procedure set forth in this section as of the effective date of this Act. All procedures set forth herein and the distribution as set forth in KRS 218A.435 as amended by Section 6 of this Act shall apply retroactively to all property subject to forfeiture prior to the effective date of this Act.

Section 10. The following KRS section is repealed:

218A.430 Maximum ceilings on proceeds.

Section 11. Whereas illegal trafficking in controlled substances is endangering the well being of the Commonwealth and its citizens, and law enforcement agencies are in immediate need of additional moneys to combat the ever-growing drug problem, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 272** is as follows:

HB 272, AN ACT relating to forfeiture and seized property and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.410 is amended to read as follows:

(1) The following are subject to forfeiture:

(a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state.

(b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(d) All substances, machinery or devices used for the manufacture, packaging, repackaging, or marking, and books, papers and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband.

(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter.

(f) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.

(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection.

(h) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it is proven beyond a reasonable doubt that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana.

(i) All books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this chapter.

(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds, including real and personal property, traceable to ***the*** [~~such an~~] exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent. It shall be a rebuttable presumption that all moneys, coin and currency found in close proximity to [~~forfeitable~~] controlled substances, to [~~forfeitable~~] drug manufacturing or distributing paraphernalia, or to [~~forfeitable~~] records of the importation, manufacture or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof ***shall be*** [~~is~~] upon claimants of personal property to rebut this presumption by clear and convincing evidence. The burden of proof ***shall be*** [~~is~~] upon the law enforcement agency to prove by clear and convincing evidence that real property is forfeitable under this paragraph.

(k) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used or intended to be used, in any manner or part, to commit, or to facilitate the commission of a violation of this chapter excluding any misdemeanor offense relating to marijuana, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner.

(2) Title to all property, including all interests in the property, forfeit under this section vests in the Commonwealth on the commission of the act or omission giving rise to forfeiture under this section together with the proceeds of the property after the time. Any property or proceeds subsequently transferred to any person shall be subject to forfeiture and thereafter shall be ordered forfeited unless the transferee establishes in the forfeiture proceeding that he is a subsequent bona fide purchaser for value without actual or constructive notice of the act or omission giving rise to the forfeiture.

(3) If any of the property described in this section cannot be located; has been transferred to, sold to, or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value by any act or omission of the defendant; or, has been commingled with any property which cannot be divided without difficulty; the court shall order the forfeiture of any other property of the defendant up to the value of any property subject to forfeiture under this section.

Section 2. KRS 218A.415 is amended to read as follows:

(1) ***Personal*** property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any ***judge that is empowered to issue a warrant of arrest or search warrant and in whose jurisdiction the property is located*** [~~court having jurisdiction over the property~~]. Seizure ***of personal property*** without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property ***is subject to forfeiture pursuant to*** [~~was used or is intended to be used in violation of~~] this chapter.

(2) Property taken or detained under this section shall not be subject to replevin, but ***shall be*** [~~is~~] deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(3) Real property subject to forfeiture may be seized only pursuant to final judgment and order of forfeiture or upon order of the court having jurisdiction over the property. The order may be obtained pursuant to this subsection upon application of the Commonwealth.

(a) Upon receipt of the application, the court shall immediately enter an order setting a date for hearing on the matter no fewer than five (5) days nor more than ten (10) days after the filing of the application. At the hearing:

1. The court shall take evidence on the issues of whether the property named in the application is forfeit and seizure is necessary to preserve the property pending final judgment.

2. The Commonwealth shall have the initial burden of showing the existence of probable cause for forfeiture of the property and the necessity of seizure. On the showing by the Commonwealth, the respondent shall have the burden of showing by a preponderance of the evidence that the property is not subject to forfeiture.

3. Evidence at the seizure hearing may not be suppressed on the ground that its acquisition by search or seizure violated constitutional protections applicable in criminal cases relating to unreasonable searches or seizures.

4. If the court makes a determination in favor of the Commonwealth, it shall enter an order authorizing the seizure of the property.

5. The court may, in its discretion, permit the owner of the property to post security equal to the value of the property in lieu of seizure.

(b) A temporary seizure order pursuant to this section may be entered on application without notice or an opportunity for a hearing if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought is subject to forfeiture and the need to preserve the availability of property through immediate seizure outweighs the hardship that an immediate seizure may cause the owner. The temporary order shall expire ten (10) days after the date on which it is entered or at the time of the hearing provided for in paragraph (a) of this subsection.

Section 3. KRS 218A.420 is amended to read as follows:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court ***unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Human Resources by promulgated regulations***. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter, the law enforcement agency may, [~~with the approval of the trial court and~~] subject to the provisions of KRS ***218A.435*** [~~218A.430~~]:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be ***paid into the fund created in KRS 218A.435. Any sale shall be a public sale advertised pursuant to KRS Chapter 424*** [~~used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance, except as provided in KRS 218A.430, shall be paid to:~~

~~1. The county if the property was seized by the law enforcement agency of the county;~~

~~2. The city if the property was seized by the law enforcement agency of the city;~~

~~3. The state treasurer for the benefit of the Kentucky state police, except as provided in KRS 218A.430, if the property was seized by the Kentucky state police;~~

~~4. When money or property is seized in a joint operation involving more than one (1) law enforcement agency the division of the money and property among the seizing agencies shall be made by the trial court~~].

Section 4. KRS 67.592 is amended to read as follows:

(1) The county judge/executive shall designate the sheriff of the county, or, if there is a county police department, may designate the chief of the county police, as custodian of all property:

(a) Alleged to be or suspected of being the proceeds of crime; or

(b) Alleged to be or suspected of having been used to facilitate the commission of a crime; or

(c) Which is subject to confiscation or forfeiture, ***excluding property subject to forfeiture pursuant to KRS Chapter 218A,*** or both, under any provision of the Kentucky Revised Statutes; or

(d). Which is taken from the person of a prisoner, except for such personal property as may be in the custody of a prisoner upon his admission to jail, [~~(~~]in which case all property which he is not permitted to retain upon admission to jail shall be placed in the custody of the jailer;[~~)~~]; or

(e) Which is lost or abandoned and taken into custody by any peace officer, or the courts; or

(f) Which is taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves.

(2) Any peace officer, except for the Kentucky State Police, or court having custody of ***the*** [~~such~~] property shall, as soon as practicable, deliver it into the custody of the property clerk.

(3) The sheriff or chief of county police designated as custodian of property shall appoint from persons on his staff, or may employ, a person to serve as property clerk and [~~such~~] other persons [~~as may be~~] necessary as deputy property clerks.

(4) All ***the*** [~~such~~] property shall be particularly described and registered by the property clerk, or his deputy, in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The property clerk shall advertise the property, if it is not the subject of a forfeiture proceeding, as to the amount and disposition of the property.

(5) The fiscal court of the county may prescribe regulations in regard to the duties of the property clerk and his deputies, and require security for the faithful performance of the duties imposed by this section.

(6) All animals stolen, strayed, lost or confiscated that come into the possession of the property clerk shall be sent to a public pound located within the county, if there is one, or if there is none to a public pound in another county.

(7) No property shall be delivered to the property clerk or his deputy except as provided in this section.

(8) No property shall be disposed of by the property clerk or his deputy except in the manner prescribed by law.

(9) The provisions of this section shall apply in all unincorporated areas of a county and in all cities which do not appoint a property custodian pursuant to KRS 95.845.

Section 5. KRS 218A.440 is amended to read as follows:

(1) Each law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, ***and with the secretary of justice containing,*** a detailed listing of all money and property seized ***in that fiscal year*** and the disposition thereof. The listing shall identify all property so seized.

(2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The Attorney General shall institute civil actions for recovery of money or property obtained or retained in violation of this ***Act***[~~section~~].

(3) The Auditor of Public Accounts, the secretary of justice or the Attorney General may at any time initiate an inquiry to determine that any agency is utilizing proceeds from the fund established in KRS 218A.435 in accordance with law, or an inquiry to determine that property is being forfeited as required by this Act.

Section 6. KRS 218A.435 is amended to read as follows:

(1) There is hereby created a trust and revolving fund in the executive branch of state government ***to be known as the "asset forfeiture trust fund" herein referred to as the "trust fund".***

(2) The ***trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund*** [~~cabinet for human resources shall, in each fiscal year, receive the moneys deposited in the fund under 218A.430, with such moneys to be used solely for the purpose of drug and alcohol abuse education, prevention and treatment~~]. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the ***agency, which will receive disbursements from the trust fund as provided in this section*** [~~cabinet for human resources for drug and alcohol abuse education, prevention, and treatment efforts~~].

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of this Act.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.

(6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

(7) The principal of the trust fund shall be distributed as follows:

(a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;

(b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Human Resources to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;

(c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Corrections Cabinet to be used solely for programs related to drug enforcement and incarceration; and

(d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for Human Resources, the secretary of the Corrections Cabinet, and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.

(9) On the effective date of this Act, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On the effective date of this Act, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from such sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with this Act. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(12) Other provisions of law notwithstanding, the first fifty thousand dollars ($50,000) of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any such recipient. In addition, forty-five percent (45%) of all proceeds above

fifty thousand dollars ($50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.

(13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in such a manner as to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

The following definitions apply in this Act unless the context otherwise requires:

(1) "Interest in property" includes:

(a) The interest of a person as a beneficiary under a trust, in which the trustee of the trust holds legal or record title of the personal or real property;

(b) The interest of a person or a beneficiary under any other trust arrangement under which any other person holds legal or record title to personal or real property for the benefit of the person; or

(c) The interest of a person under any other form of express fiduciary arrangement under which any other person holds legal or record title to personal or real property for the benefit of the person.

(d) Real property or an interest in real property shall be deemed to be located where the real property is located. Personal property or an interest in personal property shall be deemed to be located where the trustee is located, the personal property is located, or the instrument evidencing the right is located.

(2) "Forfeiture lien notice" means the notice provided for in Section 8 of this Act.

(3) "Property" means everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, easements, franchises, incorporeal hereditaments, or any interest therein.

(4) "Real property" means any real property located in the Commonwealth or any interest in real property, including any lease of, or mortgage upon, real property.

(5) "Trustee" includes:

(a) Any person acting as trustee under a trust in which the trustee holds legal or record title to personal or real property;

(b) Any person who holds legal or record title to personal or real property in which any other person has an interest; or

(c) Any successor trustee.

The term "trustee" shall not include an assignee or trustee for an insolvent debtor, a guardian under the uniform veterans' guardianship act, or an executor, administrator, administrator with will annexed, testamentary trustee curators, guardians or committees, appointed by, or under control of, or accountable to a district court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth shall have a lien on all property, real or personal, which is forfeit to the Commonwealth by virtue of KRS 218A.410. This lien shall not be defeated by gift, devise, sale, alienation or any means whatever except by sale to a subsequent bona fide purchaser for value without actual or constructive notice of the lien. The lien shall commence from the time the property becomes forfeit and shall have priority over any other obligation or liability following that time but shall be subordinate to any then existing perfected security interest on the property that is not itself subject to forfeiture.

(2) The Commonwealth may file on the official records of any one (1) or more counties a forfeiture lien notice of the lien created in subsection (1) of this section. No filing fee or other charge shall be required as a condition for filing the forfeiture lien notice, and the appropriate clerk shall, upon the presentation of a forfeiture lien notice, immediately record it in the official records.

(3) The forfeiture lien notice shall be signed by an attorney authorized to institute a forfeiture action on behalf of the Commonwealth. The notice shall set forth the following information:

(a) A description of the property which is subject to the lien;

(b) The name of the owner of record of the property subject to the lien if known;

(c) The date and place of seizure or location of any property not seized but subject to forfeiture;

(d) The violation of law alleged with respect to forfeiture of the property;

(e) A reference to any judicial proceeding pending against the property with reference to forfeiture, including the name of the county or counties where the proceeding has been brought, and, if known at the time of filing of the forfeiture lien notice, the case number of the proceeding, and the name of the defendant;

(f) The name and address of the attorney filing the forfeiture lien notice.

(4) The attorney filing the forfeiture lien notice shall, as soon as practicable after filing, furnish to any owner or lienholder of record either a copy of the recorded notice or a copy of the notice with annotation on it of the county or counties in which the notice has been recorded. Failure to provide a copy of the notice shall not invalidate or otherwise affect the lien.

(5) In conjunction with any forfeiture proceeding, an attorney representing the Commonwealth may file, without prior court order, in any county, a lis pendens under the provisions of KRS 382.440, and any person acquiring an interest in the subject real property or interest in it if the real property or interest is acquired subsequent to the filing of lis pendens, shall take the interest subject to any subsequent judgment of forfeiture.

(6) (a) A trustee who acquires actual knowledge that a forfeiture lien notice or a forfeiture proceeding has been filed against any property to which he holds legal or record title, shall immediately furnish to the attorney representing the Commonwealth the following:

1. The name and address of the holder of the beneficial interest in the property, as known to the trustee;

2. The name and address, as known to the trustee, of all other persons for whose benefit the trustee holds title to the personal or real property;

3. If requested by the attorney representing the Commonwealth, a copy of the trust agreement or other instrument under which the trustee holds legal or record title to the personal or real property.

(b) Any trustee who knowingly fails to comply with the provisions of this section is guilty of a Class D felony.

(7) Any trustee who knowingly transfers or conveys title to personal or real property for which a forfeiture lien notice has been filed at the time of the transfer or conveyance in the county where the personal or real property is located shall be liable to the Commonwealth for the greater of:

(a) The amount of proceeds received directly from the property named in the forfeiture lien notice as a result of the transfer or conveyance;

(b) The amount of proceeds received by the trustee as a result of the transfer or conveyance and distributed to the holder of the beneficial interest in the property named in the forfeiture lien notice; or

(c) The fair market value of the interest of the property named in the forfeiture lien notice transferred or conveyed;

but if the trustee transfers or conveys the personal or real property and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the discretion of the beneficiary or his designee, the trustee's liability shall not exceed the amount of the proceeds held for so long as the proceeds are held by the trustee.

(8) The Commonwealth may bring a civil proceeding in any Circuit Court against the trustee to recover from the trustee the amounts set forth in subsection (7) of this section, and the Commonwealth shall also be entitled to recover investigative costs and attorney's fees incurred.

(9) (a) The provisions of this section shall not apply to any transfer or conveyance by a trustee under a court order, unless the court order is entered in an action between the trustee and the beneficiary.

(b) Unless the trustee has actual knowledge that property is named in a forfeiture lien notice, this section shall not apply to:

1. Any conveyance by a trustee required under the terms of any trust agreement where the trust agreement is a matter of public record prior to the filing of any forfeiture lien notice; or

2. Any transfer or conveyance by a trustee to all of the persons who own a beneficial interest in the trust.

(10) The term of a forfeiture lien notice shall be for a period of six (6) years from the date of filing unless a renewal forfeiture lien notice has been filed, and, in such case, the term of the renewal forfeiture lien notice shall be for a period of six (6) years from the date of its filing. The Commonwealth shall be entitled to only one (1) renewal of the forfeiture lien notice.

(11) The attorney who filed the forfeiture lien notice may release in whole or part any forfeiture lien notice or may release any personal or real property or interest in it from the forfeiture lien notice upon the terms and conditions he determines. Any executed release of a forfeiture lien notice shall be filed in the official records of any county. No charge or fee shall be imposed for the filing of any release of forfeiture lien notice.

(12) If no court proceeding to obtain an order of forfeiture is pending against the property named in a forfeiture lien notice at the time of its filing, for purposes only of contesting the notice, it shall be treated as a seizure pursuant to KRS 218A.415.

(13) An agent of the Commonwealth shall have a continuing right to inspect property against which a forfeiture lien has been placed pursuant to this section and the Commonwealth shall have the authority to stay any civil foreclosure or repossession actions concerning property subject to the lien pending final order of forfeiture.

SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Jurisdiction in all forfeiture proceedings shall vest in the court where the conviction occurred regardless of the value of property subject to forfeiture.

(2) Following conviction of a defendant for any violation of KRS Chapter 218A, the court shall conduct an ancillary hearing to forfeit property if requested by any party other than the defendant or Commonwealth. The Commonwealth's attorney, or county attorney if the proceeding is in District Court, shall initiate the hearing by filing a motion requesting entry of a final order of forfeiture upon proof that the property was being used in violation of the provisions of this chapter. The final order of forfeiture by the court shall perfect in the Commonwealth or appropriate law enforcement agency, as provided in KRS 218A.435, right, title and interest in and to the property. The Commonwealth may transfer any real property so forfeited by deed of general warranty.

(3) If the property subject to forfeiture is of a type for which title or registration is required by law, or if the owner of the property is known in fact to the Commonwealth at the time of the hearing, or if the property is subject to a perfected security interest in accordance with the Uniform Commercial Code, KRS Chapter 355, the attorney representing the Commonwealth shall give notice of the ancillary hearing by registered mail, return receipt requested, to each person having such interest in the property, and shall publish notice of the forfeiture once each week for two (2) consecutive weeks in a newspaper of general circulation as defined in KRS Chapter 424 in the county where the forfeiture proceedings will occur. The notice shall be mailed and first published at least four (4) weeks prior to the ancillary hearing and shall describe the property; state the county, place and date of seizure; state the name of the law enforcement agency holding the seized property; and state the name of the court in which the ancillary hearing will be held and the date of the hearing. However, the Commonwealth shall be obligated only to make a diligent search and inquiry as to the owner of subject property; and if, after diligent search and inquiry, the Commonwealth is unable to ascertain the owner, the actual notice requirements by mail shall not be applicable.

(4) Unless otherwise expressly provided in KRS 218A.410, the burden shall be upon claimant to property to prove by preponderance of the evidence that it is not subject to forfeiture. Any claimant other than a person who holds title or registration to the property or who has a perfected security interest in the property shall be required to post a bond equivalent to ten percent (10%) of the appraised value of the property with the clerk of the court before being allowed to litigate the claim. The bond shall offset the costs of litigation incurred by the Commonwealth. A claimant may proceed in forma pauperis with leave of court upon sworn petition subject to the applicable rules and subject to the provisions of law concerning perjury.

(5) The procedures for forfeiture proceedings as established in this Act shall apply to any property subject to forfeiture which is pending as of the effective date of this Act.

HB 287, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.040 is amended to read as follows:

(1) A person is guilty of possession of a ***firearm*** [~~handgun~~] by a convicted felon when he possesses, manufactures, or transports a ***firearm*** [~~handgun~~] when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:

(a) Been granted a full pardon by the Governor or by the President of the United States;

(b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended.

(2) Possession of a ***firearm*** [~~handgun~~] by a convicted felon is a Class D felony.

(3) The provisions of this section shall apply only to persons convicted after January 1, 1975 ***with respect to handguns, and July 15, 1990 with respect to all other firearms.***

The Committee Amendment No. 1 to **HB 287** is as follows:

Amend printed copy of **HB 287** on page 1, line 9, to insert the word “*or*” following the semicolon “;”.

The Committee Amendment No. 2 to **HB 287** is as follows:

Amend printed copy of **HB 287** on page 1, line 8 following “a” to insert “***restoration of rights or a***”.

HB 310, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 509.040 is amended to read as follows:

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:

(a) To hold him for ransom or reward; or

(b) To accomplish or to advance the commission of a felony; or

(c) To inflict bodily injury or to terrorize the victim or another; or

(d) To interfere with the performance of a governmental or political function; or

(e) To use him as a shield or hostage***; or***

(f) To deprive the parents or guardian of the custody of a minor, when the minor is not a relative of the person unlawfully restraining the minor.

(2) Kidnapping is a Class B felony when the victim is released alive and in a safe place prior to trial, except as provided in this section. Kidnapping is a Class A felony when the victim is released alive but the victim has suffered serious physical injury during the kidnapping, or as a result of not being released in a safe place, or as a result of being released in any circumstances which are intended, known or should have been known to cause or lead to serious physical injury. Kidnapping is a capital offense when the victim is not released alive or when the victim is released alive but subsequently dies as a result of:

(a) Serious physical injuries suffered during the kidnapping; or

(b) Not being released in a safe place; or

(c) Being released in any circumstances which are intended, known or should have been known to cause or lead to the victim's death.

HB 394, AN ACT relating to real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other requirement by law, a deed to real property, except by gift, will or under the laws of descent, shall contain the following:

(a) A statement of the full actual consideration; and

(b) An acknowledgement signed by the grantor and grantee, or the agent or attorney of either, as to the full actual consideration.

(2) A deed to real property evidencing a transfer of title by gift, will, or under the laws of descent, in addition to any other requirement by law, shall contain the following:

(a) An affidavit signed by the grantor and grantee, or the agent or attorney of either, that the transfer was by gift, will or under the laws of descent; and

(b) An acknowledgement signed by the grantor and grantee, or the agent or attorney of either, as to the full estimated value of the property.

(3) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

Section 2. KRS 382.990 is amended to read as follows:

(1) Any grantor of a deed or any holder of a note who lodges for record a deed, instrument, or deed assigning a note or a deed of release or an instrument wherein there is a release, and any county clerk or deputy county clerk who receives and permits to be lodged for record any such instrument or deed contrary to the provisions of KRS 382.110, 382.120, 382.290 or 382.360, shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each offense; the clerk or deputy who actually receives and files the instrument for record shall incur the penalty, but no clerk or deputy shall be fined because of any false or erroneous statement in the instrument filed.

(2) Any person who willfully and fraudulently makes affidavit to any statement mentioned in KRS 382.120, which is false, knowing the statement to be false, shall be fined not over five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition shall be liable to any person who may be injured by the making, filing, recording or use of ***the*** [~~such~~] affidavit.

(3) Any person who causes to be recorded in a county clerk's office a deed, deed of trust or mortgage in violation of KRS 382.330, or fails to file the statement required by KRS 382.380, shall be fined not more than one thousand dollars ($1,000).

(4) Any county clerk who records a deed or mortgage in violation of KRS 382.330 shall be fined not more than one hundred dollars ($100).

(5) Any county clerk who, by himself or deputy, fails to perform any duty enjoined upon him by any of the provisions of KRS 382.110, 382.160, 382.180 to 382.200, 382.210, 382.250, 382.300 to 382.320, 382.360 or 382.370 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(6) Any person who knowingly and intentionally gives a false name or address in any instrument or assignment mentioned in KRS 382.430, shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000).

(7) Any county clerk who fails to perform his duties under KRS 382.430, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(8) Any person who willfully and fraudulently gives a false statement as to the full actual consideration of property under subsection (1) of Section 1 of this Act, or the full estimated value under subsection (2) of Section 1 of this Act, shall be guilty of a Class D felony.

Section 3. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing [~~(~~]other than a will and other than a lease or easement[~~)~~], regardless of where made, executed or delivered ***by which*** [~~whereby~~] any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed ***shall be*** [~~is~~] imposed at the rate of fifty cents (50) for each five hundred dollars ($500) of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect ***the*** [~~such~~] amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Revenue Cabinet may prescribe [~~such rules and~~] regulations [~~as it may deem~~] necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to ***the*** [~~such~~] deed shall, upon conviction, be fined fifty dollars ($50) for each offense.

(7) [~~Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than $100 or to imprisonment for not more than thirty (30) days or to both such fine and imprisonment for each offense.~~

~~(8)~~] The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To***,*** [~~(~~]in the event of a deed of gift or deed with nominal consideration***,***[~~)~~] or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation.

The Committee Amendment No. 1 to **HB 394** is as follows:

Amend printed copy of **HB 394** on page 1, line 8, before the word "***as***" to insert "***,or the parent or guardian of a person under eighteen (18) years old***";

And on page 1, line 15, before the word "***that***" to insert "***,or the parent or guardian of a person under eighteen (18) years old***";

And on page 1, line 18, before the word "***as***" to insert "***,or the parent or guardian of a person under eighteen (18) years old***".

The Committee on Transportation reported **HB 301** with Committee Substitute attached thereto, **HB 317** with Committee Amendment attached thereto, and **HJR 45** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 301, AN ACT relating to public roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 179.330 is amended to read as follows:

(1) Every county road shall be known by the name by which it was designated on the map or plat or record in the office of the county clerk of the county in which it is located or by the order of the court establishing the road, or by the deed conveying the right of way for the road to the county.

(2) When the name of any road has been designated as provided in subsection (1) of this section, the name of the road can only be changed by an order of the county judge/executive. Such order may be issued on a petition and proceeding in which fifty percent (50%) or more of the property owners abutting upon the road have joined in the petition or have been summoned for a hearing upon the petition by the county judge/executive at a day and time designated for the hearing or in counties containing a city of the first class upon the recommendation of the county engineer and of the planning and zoning commission. On similar proceeding an order may be issued designating a name for any unnamed road in the county.

(3) The fiscal court may cause signs bearing the name of each road as fixed by the county judge/executive, to be placed on the roads, or it may, by a resolution duly recorded, authorize any person or organization to erect signs, approved as to form by the fiscal court, bearing the name designated to the road by the county judge/executive.

(4) ***The transportation cabinet may permit the installation and maintenance of signs for cities and communities. Signs may be installed for cities, town or communities whether incorporated or unincorporated regardless of whether the community has a post office, if a sign had been erected at a previous time. Signs shall be installed at the official city boundaries, as determined by official city maps, or in the absence of such maps, by the appropriate local government. In those communities which do not have official boundaries, signs shall be installed at the community boundary as determined by the built-up area.***

(5) No person or organization shall remove or damage any sign erected as hereinabove provided for, or erect or place, or cause to be erected or placed, upon a road any sign or signs, indicating, marking, or designating a road by any other name than as hereinabove provided for.

(6)[~~(5)~~] Nothing in this section shall prohibit the department of highways from designating roads built under the supervision of the department of highways, either by name or number.

The Committee Substitute to **HB 301** is as follows:

HB 301, AN ACT relating to public roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Highways may install and maintain signs recognizing the boundary of a city, town or community whether incorporated or unincorporated. These signs shall be installed regardless of whether the community has a post office, if the Department of Highways had previously erected signs recognizing the city, town or community or if the fiscal court in the county of the community requests by resolution that a sign be installed a copy of the resolution be furnished to the department. The signs shall be placed at the official community boundaries. If the community does not have official boundaries, the signs shall be installed at the community boundaries as determined by the built-up area.

HB 317, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.070 is amended to read as follows:

(1) (a) Every manufacturer of, or dealer in, motor vehicles in this state shall register with each county clerk in which his principal office or place of business and branch office or sub-agent or agency is located, and pay an annual registration fee of twenty-five dollars ($25) to each clerk. Upon receipt of this fee, the clerk shall issue the manufacturer or dealer a certificate of registration and one (1) dealer plate. Every

manufacturer or dealer registered under this section shall be furnished additional dealer's plates upon the payment of twelve dollars and fifty cents ($12.50) for each plate so desired. One dollar ($1) shall be retained for each plate so desired. A motor vehicle bearing dealer's plates may be used on the highways ***without regard to purpose*** [~~only~~] by the licensed dealer or [~~by~~] a bona fide salesman or employee of the dealer***;***[~~,~~] or by any ***licensed*** manufacturer [~~or dealer licensed as provided above~~] in transporting any motor vehicle over the highways of this state to ***a dealer's*** [~~his~~] place of retail business***;*** [~~from a manufacturer~~] or ***by a*** wholesale dealer in motor vehicles. Any dealer in motor vehicles may allow any bona fide customer or the customer's employes to use the dealer's ***plate*** tag on the motor vehicle that is being demonstrated. [~~This provision shall be limited to one (1) trip or demonstration to the same prospective customer.~~] License plates issued under this section shall expire on December 31. As used in this section, "bona fide salesman or employee" means a licensed salesman, or an employee, who is actively engaged in and devotes a substantial part of his time to the conduct of the dealer business;

(b) A vehicle bearing a dealer plate, except when such vehicle is being transported to that dealer's place of business from a manufacturer ***or owned by a wholesale motor vehicle dealer***, must have, in the case of a new motor vehicle, a "monroney" sticker attached to the vehicle, or, in the case of a used motor vehicle, a federal trade commission buyer's guide sticker attached to the vehicle. ***The buyer's guide sticker may be temporarily removed from the window when the vehicle is being operated upon the highways.***

(c) A licensed motor vehicle dealer who transports motor vehicles to or from a dealership, to or from a place of wholesale transfer may obtain transit tags from the county clerk. Transit tags shall be similar in design and cost to the temporary tag provided for in KRS 186A.100, except that the printing on the transit tag shall be in red ink and the tag shall be specifically identified as a transit tag. A transit tag shall be valid for thirty (30) days from the date of completion by the dealer. The county clerk shall record the number of transit tags issued to each dealer.

(2) (a) Each manufacturer and dealer when making application for dealer's plates shall file a verified statement on at least a quarterly basis with the clerk, giving the name[~~, address and social security number~~] of each dealer, and each bona fide salesman or employee entitled to the use of the plates [~~for demonstration purposes only~~]. ***The list may also include part-time or volunteer drivers who transport vehicles to or from a place of wholesale transfer.*** When any bona fide salesman or employee so registered is no longer in the employ of the firm, an amended verified statement shall be filed ***within thirty (30) days*** with the clerk showing that fact[~~, and when any additional salesmen or employes are employed, an amended verified statement showing their names and addresses shall be filed with the clerk so that the records in the clerk's office will at all times show the bona fide salesmen and employes actually in the service of the registered dealer or manufacturer~~];

(b) The names of each dealer and each bona fide salesman and employee shall be entered by the clerk into the AVIS where it will be readily available to law enforcement agencies. Such information shall be entered by the clerk immediately after each quarterly filing of the verified statement by the dealer;

(c) Any person who is hired ***or volunteers*** as a driver ***for*** [~~by~~] a motor vehicle dealer for the limited, specific purpose of transporting a motor vehicle to or from that dealer's place of business shall be authorized, [~~for that purpose only,~~] to operate a motor vehicle bearing a dealer plate ***or a transit tag for that purpose only***. For the purpose of such operation, the dealer shall provide to that driver a permit, provided by the Transportation Cabinet, such permit to be valid for no longer than ***thirty (30)*** [~~five (5)~~] days from the date of issuance. No fee shall be charged for such permit.

(3) ***Any dealer or manufacturer who is found to be in violation of this section, after a hearing and the issuance of a final order by the Motor Vehicle Commission, shall have that dealer plate cancelled in addition to any fine or other penalty assessed by the Motor Vehicle Commission.*** [~~The license of any dealer or manufacturer may be revoked by the transportation cabinet for the violation of any of the provisions of this section. Such manufacturer or dealer shall be given an opportunity to be heard in defense of the charge that he has violated any of the provisions of this section and the transportation cabinet shall adopt and promulgate rules and regulations governing the procedure for such revocation.~~] Provided, however, that any manufacturer or dealer whose license is so revoked may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. [~~Such manufacturer or dealer whose license has been suspended is prohibited from engaging in the business of selling or buying motor vehicles. The license of any manufacturer or dealer shall be revoked for a period of one (1) year and his dealer's plates canceled in the event he violates any of the provisions of this section during this suspension period or has been suspended by the cabinet more than twice for violations of this section. At the end of the revocation or suspension period the manufacturer or dealer whose license has been revoked or suspended and dealer's plates canceled may follow the provisions of this section and again be registered and secure dealer's plates from the clerk.~~]

(4) The ***Motor Vehicle Commission*** [~~transportation cabinet~~] shall be responsible for the administration of this section, except for the normal responsibilities of law enforcement agencies, and ***shall*** [~~is empowered to~~] promulgate rules and regulations pertaining to the administration thereof.

Section 2. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(2), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than twelve dollars ($12) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be fined not less than ***two hundred*** [~~twenty~~] dollars ***($200)***[~~($20)~~] nor more than one thousand dollars ($1,000).

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

Section 3. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(4). The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle; and

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

(14) Motor vehicles being lawfully operated with a dealer plate or transit tag under the provisions of KRS 186.070 and the regulations promulgated pursuant thereto.

The Committee Amendment No. 1 to **HB 317** is as follows:

Amend printed copy of **HB 317** on page 1, line 17, after the word "dealer" by inserting the following language: "***upon motor vehicles being offered for sale by the dealership***";

On page 3, line 2, by deleting the word "***thirty (30)***" and inserting the word "***fifteen (15)***" in lieu thereof;

On page 4, line 13 by deleting the word "***thirty (30)***" and inserting the word "***fifteen (15)***" in lieu thereof;

On page 5, line 18 and 19, by deleting the words "***Motor Vehicle Commission***" and removing the brackets from around the words "Transportation Cabinet" and deleting the strike through;

On page 5, line 21, after the word "and" by inserting the following language: "***The Motor Vehicle Commission***";

On page 5, line 22, after the words "the" by inserting the following language: "***use of dealer plates and shall be responsible for the enforcement***"; and

On page 5, line 23, by placing brackets around and striking through the word "administration".

HJR 45, A JOINT RESOLUTION directing the Secretary of the Transportation Cabinet to designate the portion of US Highway 23 in Johnson County as the "Loretta Lynn Highway."

WHEREAS, Loretta Lynn has a career full of achievements which include five gold albums, a best-selling autobiography later made into a hit movie and the first woman to win the County Music Association's Entertainer of the Year Award; and

WHEREAS, with her first song, "I'm a Honky Tonk Girl," Loretta Lynn blazed a new path for female vocalists in country music and was named Female Vocalist of the Year in 1967 with songs like "You Ain't Woman Enough" and "Don't Come Home A-Drinkin"; and

WHEREAS, in addition to being the most nominated entertainer by the County Music Association, Loretta Lynn was named the Academy of County Music's Entertainer of the Decade in 1979, presented with the Music City News Living Legend Award in 1986, and, in October 1988, was inducted into the Country Music Hall of Fame; and

WHEREAS, Loretta Lynn's accomplishments also include being appointed a spokesperson by First Lady Barbara Bush in the campaign for literacy and in 1985 being the recipient of the Golden Plate Award from the American Academy of Achievement; and

WHEREAS, perhaps her most famous song, "Coal Miner's Daughter," tells of Loretta Lynn's early life in Butcher Holler, Kentucky and in her autobiography, she calls her Butcher Holler experiences "the most important part of my life"; and

WHEREAS, it is only fitting that the road to Butcher Holler should be named for the legend of country music and the most widely recognized and popular native of Johnson County;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Kentucky Transportation Cabinet be directed to designate that portion of United States Highway 23 in Johnson County the "Loretta Lynn Highway."

Section 2. That the Secretary of Transportation be directed to set aside the necessary funds to ensure that appropriate signs designating this route be posted along US 23 in Johnson County.

Section 3. That a copy of this resolution be transmitted to the Governor of the Commonwealth of Kentucky, the Secretary of the Kentucky Transportation Cabinet and Loretta Lynn.

The Committee on Transportation reported **HB 73** with Committee Substitute attached thereto, and **HB 404** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 73, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any person being considered for licensure to drive who requires the use of a bioptic telescope shall:

(a) Have minimum visual acquity of twenty/two hundred (20/200) in the better eye with conventional non-telescopic correction;

(b) Have a minimum visual acuity of twenty/forty (20/40) with the bioptic telescope;

(c) Have a horizontal visual field diameter of no less than one hundred thirty (130) degrees without the use of field expanders; and

(d) Provide to the Transportation Cabinet a written statement from an optometrist or ophthalmologist identified by a recognized professional organization as one especially qualified in the field of low vision care verifying the applicant's visual ability .

(2) The secretary of transportation shall promulgate regulations as he deems necessary to carry out the provisions of this Act.

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) Any person whose operator's license has been suspended, during the period of suspension;

(3) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(4) An habitual drunkard or drug addict;

(5) Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property;

(6) Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways;

(7) [~~Any person requiring corrective lenses who uses a compound lens system which increases the power of the lenses while restricting the field of vision;~~

~~(8)~~] Any person who is unable to understand highway warnings or direction signs in the English language;

(8)[~~(9)~~] Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(9)[~~(10)~~] Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(10)[~~(11)~~] Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths; or

(11)[~~(12)~~] Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the state treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

The Committee Substitute to **HB 73** is as follows:

HB 73, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) Any person whose operator's license has been suspended, during the period of suspension;

(3) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(4) An habitual drunkard or drug addict;

(5) Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property;

(6) Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways;

(7) [~~Any person requiring corrective lenses who uses a compound lens system which increases the power of the lenses while restricting the field of vision;~~

~~(8)~~] Any person who is unable to understand highway warnings or direction signs in the English language;

(8)[~~(9)~~] Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(9)[~~(10)~~] Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(10)[~~(11)~~] Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths; or

(11)[~~(12)~~] Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the state treasurer to be credited

to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

HB 404, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.222 is amended to read as follows:

(1) The secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length and gross weight prescribed in KRS 189.221, if in the opinion of ***the*** [~~said~~] secretary, the increased height, length and weight designated by him are justified by the strength, safety and durability of the designated highways, and ***the*** [~~said~~] highways do not appear susceptible to unreasonable and unusual damage by reason of ***the*** [~~such~~] increases and ***the*** [~~said~~] secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. [~~Provided, however, that~~] Any increase in the height, length or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by such vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. In no event shall the gross weight exceed eighty thousand (80,000) pounds;

(e) Truck tractor, semitrailer and trailer combinations and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) ***Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including but not limited to vehicles transporting sawdust, wood chips, bark, slabs or logs, may exceed the axle, or gross weight provisions as set forth in subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.***

(5) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(6)[~~(5)~~] The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent or employee thereof.

(7)[~~(6)~~] Notwithstanding any other provisions of this chapter, in no event may the secretary of the Transportation Cabinet authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds; provided, however, in the event any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, then the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but in no event shall said increased weights and dimensions exceed those set out in this section.

The Committee Amendment No. 1 to **HB 404** is as follows:

Amend printed copy of **HB 404** on page 4, line 3, after the word "***in***" by inserting the words "***accordance with***".

The Committee on Banking and Insurance reported **HB 268** with Committee Substitute attached thereto, **HB 342** with Committee Substitute attached thereto, **HB 351**, **HB 376**, **HB 388** and **HB 422** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 268, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For any coverage under an individual health insurance policy issued for delivery in this state, every insurer shall reduce its rates to levels which are at least ten percent (10%) less than the rates for such coverage which were in effect on December 1, 1989.

(2) For those who apply for an individual health insurance policy for the first time on or after the effective date of this Act, the rate shall be ten percent (10%) less than the rate which was in effect on December 1, 1989, for similarly situated risks.

(3) Any separate affiliate of an insurer, established on or after the effective date of this Act, shall be subject to the provisions of this section and shall reduce its rates to levels which are at least ten percent (10%) less than the insurer's rates in effect on that date.

(4) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has held a hearing to consider the rate increase and has subsequently issued an order approving the filing. The commissioner shall hold such a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

(5) In approving or disappoving a filing under subsection (4) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(6) Not less than ten (10) days in advance of a hearing held under subsection (4) of this section, the commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to such a hearing if he chooses to participate.

(7) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

The Committee Substitute to **HB 268** is as follows:

HB 268, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

(2) In approving or disapproving a filing under subsection (1) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(3) Not less than ten (10) days in advance of a hearing held under subsection (1) of this section, the commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to such a hearing if he chooses to participate.

(4) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

HB 342, AN ACT relating to long-term care insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304 SUBTITLE 14 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of insurance shall annually compile a consumer's guide to long-term care insurance in Kentucky. The consumer's guide shall cover all insurers offering health insurance policies in Kentucky, including health maintenance organizations, which provide coverage for services provided in long-term care facilities as defined in KRS 216.510(1). The purpose of the consumer's guide shall be to improve the buyer's ability to select the most appropriate long-term care coverage and to improve the buyer's understanding of long-term care. The consumer's guide shall contain, at a minimum, the following information:

(a) Definitions of long-term care services provided in Kentucky, the cost of services, sources of payment for long-term care, and eligibility for assistance programs;

(b) Factors that affect premium rates, such as age, deductibles, duration of benefits, and daily benefits paid;

(c) An explanation of the types of limitations contained in long-term care policies;

(d) A check list for the use of potential buyers of long-term care insurance which covers items that should be considered when selecting a long-term care insurance policy; and

(e) A comparison of the long-term care policies offered for sale in Kentucky. The comparison shall be updated at least annually, shall not recommend one (1) policy over another, and shall provide the following information for each policy: premiums at ages fifty-five (55), sixty-five (65), and seventy-five (75); services covered; length of coverage; limitations on coverage; prior institutionalization requirements; elimination period; and any other information the commissioner deems appropriate.

(2) The commissioner shall distribute, free of charge, a copy of the consumer's guide to long-term care insurance to any person upon request.

(3) The commissioner shall charge all insurers offering long-term care coverage in Kentucky an annual fee, not to exceed one hundred dollars ($100), to cover the cost of compiling, printing, and distributing the consumer's guide to long-term care.

Section 2. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental and health service corporations ***shall be*** [~~are~~] subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 7 — Investments;

(4) Subtitle 8 — Administration of Deposits;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 25 — Continuity of Management;

(7) Subtitle 33 — Rehabilitation and Liquidation;

(8) Subtitle 18 — KRS 304.18-110, 304.18-120 — Group Conversion;

(9) Subtitle 4 — Fees and Taxes;

(10) Subtitle 99 — Penalties; and

(11) Subtitle 14 — KRS 304.14-500 to 304.14-550 ***and Section 1 of this Act.***

Section 3. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations ***shall be*** [~~are~~] subject to the provisions of this subtitle, and to the following provisions of Chapter 304, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 4 — Fees and Taxes;

(4) Subtitle 5 — Kinds of Insurance; Limits of Risk; Reinsurance;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 14 — KRS 304.14-500 to 304.14-550 ***and Section 1 of this Act***;

(7) Subtitle 25 — Continuity of Management;

(8) Subtitle 33 — Rehabilitation and Liquidation; and

(9) Subtitle 99 — Penalties.

The Committee Substitute to **HB 342** is as follows:

HB 342,AN ACT relating to long-term care insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304 SUBTITLE 14 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of insurance shall annually compile a consumer's guide to long-term care insurance in Kentucky. The consumer's guide shall cover all insurers offering health insurance policies in Kentucky, including health maintenance organizations, which provide coverage for services provided in long-term care facilities as defined in KRS 216.510(1). The purpose of the consumer's guide shall be to improve the buyer's ability to select the most appropriate long-term care coverage and to improve the buyer's understanding of long-term care. The consumer's guide shall contain, at a minimum, the following information:

(a) Definitions of long-term care services provided in Kentucky, the cost of services, sources of payment for long-term care, and eligibility for assistance programs;

(b) Factors that affect premium rates, such as age, deductibles, duration of benefits, and daily benefits paid;

(c) An explanation of the types of limitations contained in long-term care policies;

(d) A check list for the use of potential buyers of long-term care insurance which covers items that should be considered when selecting a long-term care insurance policy; and

(e) A comparison of the long-term care policies offered for sale in Kentucky. The comparison shall be updated at least annually, shall not recommend one (1) policy over another, and shall provide the following information for policies: premiums at ages fifty-five (55), sixty-five (65), and seventy-five (75); services covered; length of coverage; limitations on coverage; prior institutionalization requirements; elimination period; and any other information the commissioner deems appropriate.

(2) The commissioner shall distribute, free of charge, a copy of the consumer's guide to long-term care insurance to any person upon request.

(3) The commissioner shall assess against insurers writing long term health care insurance in Kentucky on an equitable basis the cost of compiling, printing, and distributing the consumer's guide to long-term care.

Section 2. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental and health service corporations ***shall be*** [are] subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 7 — Investments;

(4) Subtitle 8 — Administration of Deposits;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 25 — Continuity of Management;

(7) Subtitle 33 — Rehabilitation and Liquidation;

(8) Subtitle 18 — KRS 304.18-110, 304.18-120 — Group Conversion;

(9) Subtitle 4 — Fees and Taxes;

(10) Subtitle 99 — Penalties; and

(11) Subtitle 14 — KRS 304.14-500 to 304.14-550 ***and Section 1 of this Act.***

Section 3. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations ***shall be*** [are] subject to the provisions of this subtitle, and to the following provisions of Chapter 304, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 4 — Fees and Taxes;

(4) Subtitle 5 — Kinds of Insurance; Limits of Risk; Reinsurance;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 14 — KRS 304.14-500 to 304.14-550 ***and Section 1 of this Act***;

(7) Subtitle 25 — Continuity of Management;

(8) Subtitle 33 — Rehabilitation and Liquidation; and

(9) Subtitle 99 — Penalties.

HB 351, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.12-220 is amended to read as follows:

(1) For purposes of subsection (2) of this section:

(a) "Announcement date" means the first general public announcement of the proposal or intention to make a proposal of the business combination or its first communication generally to shareholders of the corporation, whichever is earlier;

(b) "Determination date" means the date on which an interested shareholder first became an interested shareholder; and

(c) "Valuation date" means:

1. For a business combination voted upon by shareholders, the latter of the day prior to the date of the shareholders vote or the date twenty (20) days prior to the consummation of the business combination; and

2. For a business combination not voted upon by shareholders, the date of the consummation of the business combination.

(2) The vote required by KRS 271B.12-210 does not apply to a business combination if each of the following conditions is met:

(a) The aggregate amount of the cash and the market value as of the valuation date of consideration, other than cash to be received per share by holders of common stock in such business combination, is at least equal to the highest of the following:

1. The highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested shareholder for any shares of common stock of the same class or series acquired by it:

a. Within the five (5) year period immediately prior to the announcement date of the proposal of the business combination;

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The market value per share of common stock of the same class or series on the announcement date or on the determination date, whichever is higher; or

3. The price per share equal to the market value per share of common stock of the same class or series determined pursuant to subparagraph 2. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of common stock of the same class or series acquired by it within the five (5) year period immediately prior to the announcement date, over

b. The market value per share of common stock of the same class or series on the first day in such five (5) year period on which the interested shareholder acquired any shares of common stock;

(b) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of shares of any class or series of outstanding stock other than common stock is at least equal to the highest of the following, whether or not the interested shareholder has previously acquired any shares of a particular class or series of stock:

1. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of such class of stock acquired by it:

a. Within the five (5) year period immediately prior to the announcement date of the proposal of the business combination;

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The highest preferential amount per share to which the holders of shares of such class of stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation;

3. The market value per share of such class of stock on the announcement date or on the determination date, whichever is higher; or

4. The price per share equal to the market value per share of such class of stock determined pursuant to subparagraph 3. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of any class of voting stock acquired by it within the five (5) year period immediately prior to the announcement date, over

b. The market value per share of the same class of voting stock on the first day in such five (5) year period on which the interested shareholder acquired any shares of the same class of voting stock.

(c) In making any price calculation under this section, appropriate adjustments shall be made to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock. The consideration to be received by holders of any class or series of outstanding stock is to be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series of stock. If the interested shareholder has paid for shares of any class of stock with varying forms of consideration, the form of consideration for such class of stock shall be either cash or the form used to acquire the largest number of shares of such class or series of stock previously acquired by it;

(d) 1. After the interested shareholder has become an interested shareholder and prior to the consummation of such business combination:

a. There shall have been no failure to declare and pay, at the regular date therefor, any full periodic dividends, whether or not cumulative, on any outstanding preferred stock of the corporation;

b. There shall have been no reduction in the annual rate of dividends paid on any class or series of stock of the corporation that is not preferred stock, except as necessary to reflect any subdivision of the stock; and an increase in such annual rate of dividends as necessary to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock; and

c. The interested shareholder did not become the beneficial owner of any additional shares of stock of the corporation, except as part of the transaction which resulted in such interested shareholder becoming an interested shareholder or by virtue of proportionate stock splits or stock dividends.

2. The provisions of sub-subparagraphs a. and b. of subparagraph 1. of this paragraph do not apply if no interested shareholder or an affiliate or associate of the interested shareholder voted as a director of the corporation in a manner inconsistent with such sub-subparagraphs and the interested shareholder, within ten (10) days after any act or failure to act inconsistent with such sub-subparagraphs, notifies the board of directors of the corporation in writing that the interested shareholder disapproves thereof and requests in good faith that the board of directors rectify such act or failure to act.

(3) (a) Whether or not such business combinations are authorized or consummated in whole or in part after July 13, 1984, or after the interested shareholder became an interested shareholder, the requirements of KRS 271B.12-210 do not apply to business combinations that specifically, generally, or generally by types, as to specifically identified or unidentified existing or future interested shareholders or their affiliates or associates, have been approved or exempted therefrom by resolution of the board of directors of the corporation prior to two (2) months after July 13, 1984, or such earlier date as may be irrevocably established by resolution of the board of directors; and

(b) Unless by its terms a resolution adopted under this subsection is made irrevocable, it may be altered or repealed by the board of directors, but this shall not affect any business combinations that have been consummated, or are the subject of an existing agreement entered into, prior to the alteration or repeal.

(4) (a) Unless the articles of incorporation or bylaws of the corporation specifically provide otherwise, the requirements of KRS 271B.12-210 do not apply to business combinations of a corporation that, on July 13, 1984, had an existing interested shareholder, whether a business combination is with the existing shareholder or with any other person who becomes an interested shareholder, after July 13, 1984, or their present or future affiliates, unless, at any time after July 13, 1984, the board of directors of the corporation elects by resolution, adopted by a majority of the continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present, to be subject, in whole or in part, specifically, generally, or generally by types, as to specifically identified or unidentified interested shareholders, to the requirements of KRS 271B.12-210;

(b) The articles of incorporation or bylaws of the corporation may provide that if the board of directors adopts a resolution under paragraph (a) of this subsection, the resolution shall be subject to approval of the shareholders in the manner and by the vote specified in the articles of incorporation or the bylaws;

(c) An election under this subsection may be added to but may not be altered or repealed except by an amendment to the articles of incorporation adopted by a vote of shareholders meeting the requirements of subsection (5)(a)2. of this section; and

(d) If a corporation elects under this subsection to be included within the provisions of KRS 271B.12-210 generally, without qualification or limitation, it shall file with the secretary of state articles of amendment, including a copy of the resolution making the election and a statement describing the manner in which the resolution was adopted. The articles of amendment shall be executed in the manner required by KRS 271B.10-060.

(5) (a) Unless the articles of incorporation of the corporation provide otherwise, the requirements of a shareholder vote and board approval in KRS 271B.12-210 do not apply to any business combination of:

1. A corporation which does not have on the date any interested shareholder became an interested shareholder:

a. Five hundred (500) or more beneficial owners of its stock;

b. Its principal executive office located in this state; and

c. One (1) or more of the following:

(i) More than two hundred (200) beneficial owners of its stock residing in this state;

(ii) More than ten percent (10%) of the beneficial owners of its stock residing in this state;

(iii) More than ten percent (10%) of its outstanding stock owned by residents of this state;

(iv) More than one hundred (100) employes of the corporation and its subsidiaries working within this state; or

(v) Assets located in this state and owned by, or owned by a person or entity controlled by, the corporation with a value of at least one million dollars ($1,000,000); ***or***

2. A corporation whose original articles of incorporation have a provision, or whose shareholders adopt an amendment to the articles of incorporation after July 13, 1984, by a vote of at least eighty percent (80%) of the votes entitled to be cast by outstanding shares of voting stock of the corporation, voting together as a single voting group and two-thirds (2/3) of the votes entitled to be cast by persons, if any, who are not interested shareholders of the corporation, voting together as a single voting group, expressly electing not to be governed by KRS 271B.12-210; [~~or~~

~~3. An investment company registered under the federal Investment Company Act of 1940, as amended; a bank or a bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended; a savings and loan holding company as defined in the federal Savings and Loan Holding Company Amendments of 1967, as amended; and a domestic insurer as defined under KRS 304.1-070;~~] and

(b) For purposes of subparagraph 1. of paragraph (a) of this subsection, all shareholders of a corporation who have executed an agreement to which the corporation is an executing party governing the purchase and sale of stock of the corporation or a voting trust agreement governing stock of the corporation shall be considered a single beneficial owner of the stock covered by the agreement.

HB 376, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act, unless the context otherwise requires:

(1) "Advertisement" means a commercial message in any medium that aids, promotes, or assists directly or indirectly a rental-purchase agreement, excluding in-store merchandising aids.

(2) "Cash price" means the price at which the lessor would have sold the property to the consumer for cash on the date of the rental-purchase agreement.

(3) "Consumer" means a natural person who rents personal property under a rental-purchase agreement.

(4) "Consummation" means the time a consumer becomes contractually obligated on a rental-purchase agreement.

(5) "Division" means the Division of Consumer Protection in the office of the Attorney General.

(6) "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under a rental-purchase agreement.

(7) "Rental-purchase agreement" means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four (4) months or less, whether or not there is any obligation beyond the initial period, that is automatically renewable with each payment and that permits the consumer to become the owner of the property. The term rental-purchase agreement shall not be construed to be, nor be governed by, any of the following:

(a) A lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 226.2(a)(16) and Section 1602(g) of the Truth in Lending Act, 15 U.S.C. 1601 et seq.;

(b) A lease which constitutes a consumer lease as defined in 12 C.F.R. 213.2(a)(6);

(c) Any lease for agricultural, business, or commercial purposes;

(d) Any lease made to an organization;

(e) A lease or agreement which constitutes a retail installment transaction or retail installment contract as defined in KRS 371.210;

(f) A security interest as defined in KRS 355.1-201(37); or

(g) A home solicitation sale as that term is defined in KRS 367.410.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) For each rental-purchase agreement, the lessor shall disclose the following items as applicable:

(a) A brief description of the leased property, sufficient to identify the property to the consumer and lessor;

(b) The number, amount, and timing of all lease payments necessary to acquire ownership of the property;

(c) The maximum amount of all initial and periodic payments and other charges to acquire ownership of the property pursuant to the ownership provision of the rental-purchase agreement;

(d) A statement that the consumer will not own the property until the consumer has made the number of payments and the total of payments necessary to acquire ownership;

(e) A statement that the total of payments does not include other charges such as late payment, default, pickup, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges;

(f) If applicable, a statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed;

(g) A statement indicating whether the property is new or used; however, a statement that indicates new property is used is not a violation of this Act;

(h) A statement of the cash price of the property. If the agreement involves a lease for five (5) or more items, a statement of the aggregate cash price of all items shall satisfy this requirement;

(i) The total of initial payments required to be paid before consummation of the agreement or delivery of the property, whichever is later;

(j) A statement clearly summarizing the terms of the consumer's options to purchase;

(k) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with the description of that responsibility and a statement that, if any part of a manufacturer's express warranty covers the leased property at the time the consumer acquires ownership of the property, it will be transferred to the consumer, if allowed by the terms of the warranty; and

(l) The date of the transaction and the identities of the lessor and consumer.

(2) With respect to matters specifically governed by the federal Consumer Credit Protection Act, compliance with that act shall satisfy the requirements of this section.

(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of Section 182 of the federal Consumer Credit Protection Act, 15 U.S.C.A. 1667a, 90 Stat. 250, with respect to a rental-purchase agreement entered into with a consumer.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) The lessor shall disclose to the consumer the information required by this Act. In a transaction involving more than one (1) consumer, a lessor shall disclose only to one (1) of the consumers who are primarily obligated. In a transaction involving more than one (1) lessor, only one (1) lessor need make the required disclosures.

(2) The disclosures required under this Act shall be made no later than the time the lessor delivers the merchandise to the consumer, or upon consummation of the rental-purchase agreement, whichever is earlier.

(3) The disclosures shall be made using words and phrases of common meaning in a form that the consumer may keep. The disclosures required under Section 2 of this Act shall be made a part of the rental-purchase agreement or provided on a separate form. The required disclosures shall be set forth clearly and conspicuously. The disclosures shall be placed all together, on the front side of the rental-purchase agreement or on a separate form. The form setting forth the required disclosures shall contain spaces for the consumer's signature and the date immediately below the disclosures. The requirements of this subsection shall not have been complied with unless the consumer signs the statement and receives at the time disclosures are made a legible copy of the signed statement. The inclusion in the required disclosures of a statement that the consumer received a legible copy of those disclosures shall create a rebuttable presumption of receipt thereof.

(4) Information required to be disclosed may be given in the form of estimates and shall be identified as such when the lessor does not know the exact information.

(5) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement after delivery of the required disclosures, the resulting inaccuracy shall not be a violation of this Act.

(6) At the lessor's option, information in addition to that required by Section 2 of this Act may be disclosed if the additional information is not stated, utilized, or placed in a manner which will contradict, obscure, or distract attention from the required information.

(7) A lessor shall make available a written receipt for each payment made by cash or money order.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A rental-purchase agreement shall not contain a provision:

(1) Requiring a confession of judgement;

(2) Requiring a garnishment of wages;

(3) Granting authorization to the lessor of a person acting on the lessor's behalf to enter unlawfully upon the consumer's premises or to commit any breach of the peace in the repossession of goods;

(4) Requiring the consumer to waive any defense, counterclaim or right of action against the lessor or a person acting on the lessor's behalf in collection of payment under the lease or in the repossession of goods; or

(5) Requiring purchase of insurance from the lessor to cover the merchandise.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Each rental-purchase agreement shall:

(a) Provide that the consumer may terminate the agreement without penalty by voluntarily surrendering or returning the merchandise upon expiration of any lease term; and

(b) Contain a provision for reinstatement which, at a minimum permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental charges, the reasonable costs of pickup, redelivery, any refurbishing and any applicable late fee within five (5) days of the renewal date if the consumer pays monthly, or within two (2) days of the renewal date if the consumer pays more frequently than monthl

(2) If a lessee returns the property to the lessor during the times stated in subsection (1) of this section, the reinstatement period shall be extended for an additional thirty (30) days from the date of return.

(3) Nothing in this section shall prevent a lessor from attempting to repossess property during the reinstatement period, but that repossession shall not affect the consumer's right to reinstate. Upon reinstatement, the lessor shall provide the consumer with the same property or substitute property of comparable quality and condition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A renegotiation shall occur when an existing rental-purchase agreement is satisfied and replaced by a new lease agreement undertaken by the same consumer. A renegotiation shall be a new agreement covered by this Act. However, events such as the following shall not be treated as a renegotiation:

(a) The addition or return of property in a multiple item agreement or the substitution of lease property, if in either case the average payment allocable to a payment period is not changed by more than twenty-five percent (25%);

(b) A deferral or extension of one (1) or more periodic payments, or portions of a periodic payment;

(c) A reduction in charges in the agreement;

(d) An agreement involving a court proceeding; or

(e) Any other event described in administrative regulations prescribed by the division.

(2) No disclosures shall be required for any extension of a rental-purchase agreement.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) If an advertisement for a rental-purchase agreement refers to or states the amount of any payment or the right to acquire ownership for any specific item, the advertisement also shall state clearly and conspicuously the following items, as applicable:

(a) That the transaction advertised is a rental-purchase agreement;

(b) The total of payments necessary to acquire ownership; and

(c) That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.

(2) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

(3) Subsection (1) of this section shall not apply to an advertisement:

(a) Which does not refer to a specific item of merchandise;

(b) Which does not refer to or state the amount of any payment; or

(c) Which is published in the yellow pages of a telephone directory or any similar directory of business.

(4) With respect to matters specifically governed by the federal Consumer Credit Protection Act, compliance with that act shall satisfy the requirements of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A lessor who fails to comply with a requirement imposed in Section 2, 3, 4, or 5 of this Act with respect to a consumer shall be liable to the consumer in an amount equal to the greater of:

(a) The actual damages sustained by the consumer as a result of the violation, plus the costs of the action and reasonable attorneys' fees; or

(b) In the case of an individual action, twenty-five percent (25%) of the total of payments necessary to acquire ownership but not less than one hundred dollars ($100) nor greater than one thousand dollars ($1,000), plus the costs of the action and reasonable attorneys' fees; or

(c) In the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member, plus the costs of the action and reasonable attorneys' fees. The total recovery in any class action or series of class actions arising out of the same violation shall not be more than the

lesser of five hundred thousand dollars ($500,000), plus the costs of the action and reasonable attorneys' fees or one percent (1%) of the net worth of the lessor, plus the costs of the action and reasonable attorneys' fees. In determining the amount of any award in a class action, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the violation, the lessor's resources, and the extent to which the lessor's violation was intentional.

(2) In the case of an advertisement, any lessor who fails to comply with the requirements of Section 7 of this Act with regard to any person shall be liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorneys' fees.

(3) If there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. If no disclosures have been given, liability shall be imposed on all lessors.

(4) If there are multiple consumers in a rental-purchase agreement, there shall be only one (1) recovery of damages under subsection (1) of this section for a violation of this Act.

(5) Multiple violations in connection with a rental-purchase agreement shall entitle the consumer to a single recovery under this section.

(6) A consumer shall not take any action to offset any amount for which a lessor is potentially liable under subsection (1) of this section against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection shall not bar a consumer then in default on the obligation from asserting a violation of this Act as an original action, or as a defense or counterclaim to an action brought by lessor to collect amounts owed by the consumer.

(7) In connection with any transaction covered under this Act, the lessor shall preserve evidence of compliance with the provisions of the Act for not less than two (2) years from the date of consummation of the agreement.

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A civil action under this Act may be brought in any court of competent jurisdiction within one (1) year of the date of the occurrence of any violation or within six (6) months of the time the rental-purchase agreement, together with any renewals or extensions thereof, ceases to be in effect, whichever is greater. Notwithstanding the above, a civil action under this Act may be maintained by way of recoupment or counterclaim in an action brought against the consumer by the lessor or its assignee.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A lessor shall not be liable under Section 9 of this Act for a violation of this Act if the lessor shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, such as a clerical miscalculation, computer malfunctions, programming error, or printing error, even though the lessor maintained procedures reasonably adapted to avoid such an error. An error of legal judgment with respect to requirements of this title shall not be considered a bona fide error.

(2) A lessor shall not be liable under Section 9 of this Act for any act done or omitted in good faith in conformity with any administrative regulation or interpretation promulgated by the Attorney General or by the division or by an official duly authorized by the Attorney General or by the division. This rule shall apply even if, after the act or omission has occurred, the regulation or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(3) A lessor shall not be liable under Section 9 of this Act for any error if, before the thirty-first day after the date the merchant discovers the error and before an action against the lessor has been filed or written notice of the error received by the lessor, the lessor gives the consumer written notice of the error and makes adjustments in the consumer's account as necessary to assure that the consumer will not be required to pay an amount in excess of the amount disclosed and that the agreement otherwise complies with this Act.

Section 11. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) ***Any person who shall willfully and intentionally violate any provision of this Act shall be fined not more than five hundred dollars ($500.00) for each offense.***

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties; and

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(11)[~~(10)~~] Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12)[~~(11)~~] Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13)[~~(12)~~] Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(14)[~~(13)~~] Either the Attorney General or the appropriate ***Commonwealth's*** [~~Commonwealth~~] attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15)[~~(14)~~] A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate ***Commonwealth's*** [~~Commonwealth~~] attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16)[~~(15)~~] Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(17)[~~(16)~~] Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(18)[~~(17)~~] Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(19)[~~(18)~~] Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20)[~~(19)~~] Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21)[~~(20)~~] (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22)[~~(21)~~] (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). Either the Attorney General or the appropriate county health department shall have authority to prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor or processor fails to comply with the provisions of KRS 367.857.

HB 388, AN ACT relating to the Kentucky FAIR Plan and Reinsurance Association.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.35-030 is amended to read as follows:

(1) The "FAIR" plan and articles of association shall make provision for a Reinsurance Association having authority on behalf of its members as their agent to cause to be issued property and casualty insurance policies, to reinsure in whole or in part any such policies, and to cede any such reinsurance. The plan and articles of association shall provide, among other things, for the lines of business to be written, policy forms to be used, perils to be covered, geographical area of coverage, compensation and commissions, assessments of members (which assessments annually shall not exceed [~~one-fourth of~~] one percent ([~~1/4 of~~] 1%) of any such member's net direct premium written on a voluntary basis in this state during the preceding year), participation in the writings, expenses, income and losses in the proportion each member's property and casualty premiums written bear to the aggregate property and casualty premiums voluntarily written by all members, the administration of the plan and association, and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements.

(2) If the commissioner, in the fulfillment of the duties imposed on him by KRS 304.13-041, determines that a reasonable degree of competition does not exist in the market for any lines of insurance, within the definitions of KRS 304.5-050 (property insurance) and KRS 304.5-070 (casualty insurance), or either of them, and issues an order to that effect, the commissioner shall order the governing committee to promptly amend the plan to include such line or lines of business unless, in the commissioner's opinion, an effective residual market mechanism as defined in KRS 304.13-011(8) is already then functioning to provide basic insurance requirements to worthy applicants for reasonable amounts of coverage under such line or lines of insurance with insurers licensed to do business in this state. For accounting and rate-making purposes, the commissioner may require the plan to provide for the establishment and maintenance of separate accounts for any line included in the plan pursuant to this section.

Section 2. KRS 304.35-040 is amended to read as follows:

(1) The Reinsurance Association shall be governed by a committee consisting of seven (7) persons to be appointed by the commissioner of insurance within five (5) days from July 15, 1980. The governing committee shall be composed of two (2) persons representing insurers chartered under the laws of the Commonwealth of Kentucky, one (1) person representing an insurer that is neither chartered under the laws of the Commonwealth of Kentucky nor affiliated with one (1) of the national insurance trade associations, one (1) person representing an insurer from each of the following three (3) associations: American Insurance Association, Alliance of American Insurers, National Association of Independent Insurers, and one (1) licensed insurance agent.

(2) Within thirty (30) days following July 15, 1980, the governing committee of the association shall submit to the commissioner of insurance, for his review, a proposed "FAIR" plan and articles of association consistent with the provisions of this subtitle.

(3) The "FAIR" plan and articles of association shall be subject to approval by the commissioner of insurance and shall take effect five (5) days after having been approved by him. If the commissioner disapproves

all or any part of the proposed plan and articles, the governing committee of the association shall within fifteen (15) days submit for review an appropriately revised plan and articles; and, if the governing committee fails to do so, the commissioner shall thereafter promulgate such plan and articles consistent with the provisions of this subtitle.

(4) The governing committee of the association may, on its own initiative or shall at the request of the commissioner, amend the plan and articles, subject to approval by the commissioner.

(5) The governing committee of the association shall, on or before April 1 of each year, file with the commissioner, on such forms as the commissioner requires, an accounting of the plan's operations during the preceding calendar year together with its financial condition, and its underwriting experience as to each separate account maintained therein, as of the end of such year. The commissioner may require interim accountings on a quarterly basis or examine the affairs of the association when, in his opinion, such action is necessary to determine the continued solvency of the Reinsurance Association.

(6) If at any time the commissioner determines that the Reinsurance Association is or may become unable to meet its financial obligations during the current year, the commissioner shall order the governing committee to levy appropriate assessments within the limitations of KRS 304.35-030(1) against all members. [~~If the commissioner further determines that such assessment, when levied at the maximum rate for any account during any calendar year, is or may be insufficient to maintain the solvency of the reinsurance association for at least one year, the commissioner shall order each member to collect a premium surcharge for the benefit of the reinsurance association of one dollar ($1.00) from the holder of each individual policy or certificate written or renewed either voluntarily by such member or as a residual market mechanism assignment during the subsequent twelve (12) month period. Such policy or certificate surcharge shall be remitted monthly to the association by each member and shall be in addition to any assessments levied against the member pursuant to KRS 304.35-030(1) by the governing committee.~~]

HB 422, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.655 is amended to read as follows:

(1) Before any certificate or permit will be issued or renewed, the applicant or holder of the certificate or permit ***shall*** [~~must~~] file or have on file with the department an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. The bond or policy shall have attached thereto the state insurance indorsement. All bonds or policies required herein ***shall*** [~~must~~] be issued in the name of the holder of the certificate or permit. In lieu of the bond or policy, the department, under appropriate [~~rules and~~] regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(2) The bond or policy required of a U-Drive-It or automobile utility trailer lessor shall provide public liability and property damage coverage when operated either by the lessee or lessor thereof or agents, servants or employes of either.

(3) All bonds or policies shall provide blanket coverage for all equipment operated pursuant to the certificate or permit.

(4) ***Except as provided in subsection (12) of this section*** [~~Effective January 1, 1957~~], the types and minimum amounts of insurance to be carried on each vehicle ***shall be*** [~~are~~] as follows:

MOTOR VEHICLES FOR THE TRANSPORTATION OF PERSONS, INCLUDING U-DRIVE-ITS

Capacity	Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
7 persons or less	$10,000.00	$20,000.00	$5,000.00
8 to 16 inclusive	10,000.00	30,000.00	5,000.00
17 to 25 inclusive	10,000.00	40,000.00	5,000.00
26 or more	10,000.00	50,000.00	5,000.00

MOTOR VEHICLES FOR THE TRANSPORTATION OF PROPERTY, INCLUDING U-DRIVE-ITS AND AUTOMOBILE UTILITY TRAILERS

Gross Weight	Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
18,000 lbs. or less	$ 10,000.00	$ 20,000.00	$ 5,000.00
More than 18,000 lbs.	100,000.00	300,000.00	50,000.00

(5) Any person, firm or corporation operating or causing to be operated any vehicle for the transportation of petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds shall have the following types and minimum amount of insurance carried on each vehicle:

Total Death of or Injury to Any One Person	Liability for Death of or Injury to Persons	Property Damage
$100,000.00	$300,000.00	$50,000.00

(6) Any person, firm or corporation operating or causing to be operated any vehicle for the transportation of hazardous material as defined in KRS 174.405, except petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds, shall have on each vehicle single limits liability insurance coverage of not less than one million dollars ($1,000,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident or occurrence.

(7) Before any Kentucky intrastate certificate exclusively authorizing the transportation of property, except an irregular route common carrier certificate exclusively authorizing the transportation of Kentucky exempted commodities, shall be issued or renewed, the applicant or holder of the certificate ***shall*** [~~must~~] file or have on file with the department an approved insurance policy or bond compensating shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into possession of the carrier in connection with its transportation service:

(a) For loss of or damage to property carried on any one (1) motor vehicle in the amount of five thousand dollars ($5,000);

(b) For loss of or damage to or aggregate of losses or damages of or to property occurring at any one (1) time and place in the amount of ten thousand dollars ($10,000).

The [~~Said~~] policy or bond shall have attached thereto the Kentucky cargo policy indorsement and ***shall*** [~~must~~] be issued by some insurance or surety company authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. In lieu of the bond or policy, the department, under appropriate [~~rules and~~] regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(8) The department may by regulation require motor carriers for hire operating exclusively interstate commerce to file proof of cargo insurance coverage in ***the*** [~~such~~] form and in ***the*** [~~such~~] amounts [~~as~~] the commissioner deems advisable.

(9) No insurance company or insurance carrier issuing any policy filed with the department, and no surety or obligor on any bond or contract filed with the department, shall be relieved from liability under the policy, bond or contract until after the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract. [~~, provided, however, that~~] A prior cancellation may be allowed in cases where one (1) policy, bond or contract is substituted for another policy, bond or contract ***if the*** [~~where such~~] substituted policy, bond or contract is of force and effect at a [~~point in~~] time prior to the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract for which ***the*** [~~such~~] additional policy, bond or contract is being substituted. The acceptance of any notice of an intention to cancel any policy, bond or contract or the cancellation of any policy, bond or contract by the department, unless under the circumstances [~~hereinbefore~~] set forth, shall not relieve the insurance company, insurance carrier, surety or obligor of any liability that accrued prior to the effective date of the cancellation.

(10) Upon the cancellation of any bond or insurance policy required by this section, all operating rights

granted by the certificate or permit for which ***the*** [~~said~~] bond or policy was filed, shall immediately cease, and the department ***may*** [~~is empowered to~~] immediately require the cessation of all operations conducted under authority of ***the*** [~~said~~] certificate or permit, and ***may*** [~~to~~] require the surrender of all certificates, permits, licenses and other evidence of a right to act as a motor carrier.

(11) The department may exempt in whole or in part from the requirements of this section any person who applies for ***the*** [~~such~~] exemption and shows to the satisfaction of the department that, by reason of the financial ability of the person applying, there is due assurance of the payment of all damages for which he may become liable as a result of the operation of any vehicle owned by him or operated under authority of his certificate or permit.

(12) The minimum amounts of insurance to be carried on each taxicab shall be liability coverage of not less than twenty-five thousand dollars ($25,000) for all damages arising out of bodily injury sustained by any one (1) person, and not less than fifty thousand dollars ($50,000) for all damages arising out of bodily injury sustained by all persons injured as a result of any one (1) accident, plus liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading of the insured vehicle.

Calendar

HB 14, HB 231, HB 241, HB 242, HB 311, HB 339, HB 358, HB 371, HB 372, HB 373, HB 375, HB 386, HB 433, HB 438, HB 487, SB 47, SB 53, SB 54, SB 56, SB 59, SB 60, SB 61, SB 62 and **SB 117** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 238 and **HB 418** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 299, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Amendment No. 1 to **HB 299**. Agreed.

Representative Kerr moved the adoption of Committee Amendment No. 2 to **HB 299**. Agreed.

Representative Kerr moved that **HB 299**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 8, 1990 roll call on **HB 299** - Appendix.)

HB 299, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 299**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 323 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 323** be passed.

On the roll call the vote was: Yeas 64, Nays 26. (See February 8, 1990 roll call on **HB 323** - Appendix.)

HB 323 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 323** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 338 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 338** be passed.

On the roll call the vote was: Yeas 19, Nays 70. (See February 8, 1990 roll call on **HB 338** - Appendix.)

HB 338 was defeated.

HB 212, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Substitute to **HB 212**. Agreed.

Representative Hancock moved that **HB 212**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 58, Nays 34. (See February 8, 1990 roll call on **HB 212** - Appendix.)

HB 212, by way of Committee Substitute, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 212**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 83, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hourigan moved the adoption of Committee Substitute to **HB 83**. Agreed.

Representative Hourigan moved that **HB 83**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 8, 1990 roll call on **HB 83** - Appendix.)

HB 83, by way of Committee Substitute, was passed and the title agreed to.

Representative Hourigan moved that the vote by which **HB 83**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 215, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Substitute to **HB 215**. Agreed.

Representative Hancock moved that **HB 215**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 8, 1990 roll call on **HB 215** - Appendix.)

HB 215, by way of Committee Substitute, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 215**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 253, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 253** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 8, 1990 roll call on **HB 253** - Appendix.)

HB 253 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 253** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 217, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 217** is as follows:

Amend printed copy of **HB 217** on page 2, line 26. by deleting the number "***forty (40)***" and inserting in lieu thereof the number "***forty-five (45)***"; and

On page 4, line 3, by deleting the number "***forty (40)***" and inserting in lieu thereof the number "***forty-five (45)***"; and

On page 4, line 5, by deleting the number "***forty (40)*** " and inerting in lieu thereof the number "***forty-five (45)***".

Representative Lear moved that the House concur in the Senate Amendment No. 1 to **HB 217**. Agreed.

Representative Lear moved that **HB 217**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 8, 1990 roll call on **HB 217** - Appendix.)

Representative Lear moved that the vote by which **HB 217**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Nelson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Nelson moved the adoption of the following **HR 113**:

HR 113, A RESOLUTION commemorating the Central City Golden Tide.

WHEREAS, the Central City High School Golden Tide basketball team has struck fear into opponents' hearts since 1922; and

WHEREAS, as of February 5, 1990, the Golden Tide has won 1,574 games, making it the most winning basketball team in the history of Kentucky and second in the nation; and

WHEREAS, the Tide has had 20 wins or more in 51 seasons, won their district 36 times and been in the State Tournament 17 times; and

WHEREAS, eight players have made the All-State Tournament Team and three have been inducted into the Kentucky High School Hall of Fame; and

WHEREAS, this is Central City's last year before it becomes part of North Muhlenberg High School; and

WHEREAS, it is hoped that the spirit, dedication and desire to win demonstrated over the years by the Golden Tide will be instilled in the North Muhlenberg High School basketball team;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Central City Golden Tide basketball program be congratulated and commemorated for making such a great contribution to the winning tradition of Kentucky basketball;

Section 2. That copies of this resolution be dispatched to the principal and basketball coach of Central City High School for distribution.

HR 113 was adopted by voice vote.

Representative Nelson moved that a call of the roll be taken to show co-sponsors of **HR 113**.

On the roll call the vote was yeas 84-Adkins, Allen, Altman, Ark, Ballard, Barrows, Blandford, Blevins, Bronger, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, Hatcher, Heleringer, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Morris, Mullinix, Napier, Nelson, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, White, Worthington, Yates, Zimmerman. Nays 0.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions:

HB 13, Representative Donnermeyer; **HB 16**, Representative Worthington; **HB 43**, Representative Sheehan; **HB 47**, Representative Brown; **HB 65**, Representatives Donnermeyer, Keith, Riner, Ward; **HB 71**, Representative White; **HB 87**, Representative Todd; **HB 194**, Representative Ridley; **HB 211**, Representatives Blevins, Cline, Keith; **HB 212**, Representatives Blevins, Cline; **HB 229**, Representatives Donnermeyer, Keith; **HB 233**, Representative Walker; **HB 239**, Representative Lile; **HB 256**, Representatives Blevins, Casebier, Scorsone; **HB 305**, Representative Lewis; **HB 310**, Representative Reinhardt; **HB 379**, Representative Heleringer; **HB 386**, Representative Strong; **HB 399**, Representatives Lewis, Maggard; **HB 411**, Representatives Bronger, L. Clark; **HB 436**, Representatives Blevins, Heleringer; **HB 482**, Representative Ward; **HR 112**, Representatives L. Clark, Mullinix, Ward; **HJR 17**, Representative Northup; **HJR 54**, Representative Blevins.

The following member filed a request that his name be withdrawn as co-sponsor of the following Bill: **HB 65**, by Representative Blandford.

Representative Hatcher moved the adoption of the following **HR 107**:

HR 107, A RESOLUTION adjourning in honor of Novella T. Bradley.

WHEREAS, it seems appropriate from time to time to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, Novella T. Bradley has unselfishly dedicated many hours of her time serving her church, helping friends and other "prime-timers," family members and the less fortunate; and

WHEREAS, the citizens of this great Commonwealth are indeed blessed to have such a loving and caring person in Novella T. Bradley; and

WHEREAS, on February 8, 1990, Novella T. Bradley will be seventy-five years old;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes Novella T. Bradley for her many accomplishments and extends birthday greetings to her on February 8, 1990.

Section 2. That when the House adjourns this day, Thursday, February 8, 1990, it does so in honor of Novella T. Bradley.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to Mrs. Novella T. Bradley, c/o Colonel Floyd Robey, Jr., 125 North 35th Street, Louisville, Kentucky 40212.

HR 107 was adopted by voice vote.

Representative Kerr moved the adoption of the following **HR 114**:

HR 114, A RESOLUTION adjourning in memory of Amy Lynn Casson, artist, honor student, and child of faith.

WHEREAS, Amy Lynn Casson departed this earthly life and has crossed that final bourne from whence no traveler returns; and

WHEREAS, Amy Lynn Casson of Taylor Mill died in Houston, Texas, Monday, January 22nd at the early age of 17 after a five-year battle with leukemia; and

WHEREAS, Amy Lynn Casson did not live a long life but she accomplished much; and

WHEREAS, Amy Lynn Casson was an artist, a singer, an honor student, a loving daughter, and an enduring friend to those who knew her; and

WHEREAS, she left a positive impression and had a strong faith in the Lord that never wavered;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its profound grief over the loss of Amy Lynn Casson, a young Kentuckian, who brought enthusiasm, optimism, and a very strong faith in the Lord to everyone fortunate enough to know her.

Section 2. That the House laments the untimely loss of Amy Lynn Casson and commits her loving parents Linda and Garry Casson; three brothers Adam Casson, Aaron Casson, and Andrew Casson; sister, Allison Casson; maternal grandmother, Helen Shoptaugh; paternal grandmother, Hilda Torrey; and paternal great-grandmother, Elizabeth Gosney to the solace of the Lord.

Section 3. That when the House does adjourn this day Thursday, February 8, 1990, it does so in memory of Amy Lynn Casson.

Section 4. That the Clerk of the House is directed to transmit copies of this resolution to the family of Amy Lynn Casson of Taylor Mill.

HR 114 was adopted by voice vote.

Representative Gregory moved the adoption of the following **HR 101**:

HR 101, A RESOLUTION recognizing and honoring the Kentucky Small Business Development Center program and recommending its continuation under the University of Kentucky.

WHEREAS, the Kentucky Small Business Development Center serves as a major tool for economic development by providing counseling and training to Kentucky small business owners and operators through a network of 14 service centers strategically located throughout the Commonwealth; and

WHEREAS, the effectiveness of the Kentucky Small Business Development Center is demonstrated by the resulting economic impact which includes the fact that in eight (8) years of operation over 19,000 jobs have been created by firms assisted in start-ups or expansions with over $50 million generated in new revenue to the state and federal governments from these firms; and

WHEREAS, the Kentucky Small Business Development Center is a model cooperative program whereby the University of Kentucky and its community colleges, the Kentucky regional universities, the University of Louisville, and Bellarmine College join into a cohesive operation to provide statewide services to stimulate small business development; and

WHEREAS, the Kentucky Cabinet for Economic Development and the U.S. Small Business Administration join these participating universities and colleges in financing the Kentucky Small Business Development Center; and

WHEREAS, the University of Kentucky College of Business and Economics provides the leadership and supervision for the Kentucky Small Business Development Center and Jerry Owen has served with distinction as the state director of the Kentucky Small Business Development Center under the astute oversight of Dr. Richard W. Furst, Dean of the College of Business and Economics; and

WHEREAS, the Kentucky Small Business Development Center has received national recognition as "a mature and well organized network providing quality assistance to the small business community" and as "one of the leading small business development centers in the nation."

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky House of Representatives:

(a) Recognize the Kentucky Small Business Development Center as a very valuable service to the Kentucky Small Business Community.

(b) Compliment all the participants in the Kentucky Small Business Development Center program and thank each participant for providing citizens of Kentucky assistance in this vital area.

(c) Applaud the leadership provided by the University of Kentucky through the College of Business and Economics in developing and coordinating this very fine service program.

(d) Commend Jerry Owen and Dr. Richard W. Furst for their outstanding service to the Commonwealth of Kentucky.

Section 2. That the Kentucky House of Representatives:

(a) Urge the continuation of the Kentucky Small Business Development Center as a university and college based service under the leadership of the University of Kentucky.

(b) Encourage all entities providing financing for the Kentucky Small Business Development Center

Program to continue this support and to consider providing an increase in the level of support to enhance the service to Kentucky small business and further stimulate economic development in our Commonwealth.

Section 3. That a copy of this resolution be forwarded to:

(a) Governor Wallace Wilkinson;

(b) The presidents of each of the participating universities and colleges;

(c) The U.S. Small Business Administration;

(d) The secretary of the Cabinet for Economic Development; and

(e) The dean, College of Business and Economics, University of Kentucky.

HR 101 was adopted by voice vote.

Representative P. Richardson moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 116, by Representative P. Richardson: A RESOLUTION honoring and supporting the War on Drugs Society (W.O.D.S.).

Representative P. Richardson moved the adoption of the following **HR 116**:

HR 116, A RESOLUTION honoring and supporting the War on Drugs Society (W.O.D.S.).

WHEREAS, the War on Drugs Society (W.O.D.S.) is dedicated to combatting the use of illegal drugs by eliminating their distribution; and

WHEREAS, Chairman Billy Edwards and his staff have committed much time and effort toward this worthwhile project, and Chairman Edwards has emphasized, "If you participate in this program, you want to win the war, if you do not participate, then you must be on the other side"; and

WHEREAS, the War on Drugs Society is holding a public meeting on Thursday, February 8, 1990, at 7:00 p.m., in the George Rogers Clark High School, Winchester, Kentucky, for the presentation of certificates to new members in the program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body supports the War on Drugs Society (W.O.D.S.), and congratulates the new members receiving certificates on Thursday, February 8, 1990.

Section 2. That this honorable body urges all citizens in this great Commonwealth to join in the fight against drugs in our society.

Section 3. That Representative Paul Richardson is directed to transmit a copy of this resolution to the War on Drugs Society (W.O.D.S.).

HR 116 was adopted by voice vote.

Representative P. Clark moved the adoption of the following **HR 112**:

HR 112, A RESOLUTION urging President Bush and the Congress not to close the Louisville Naval Ordinance Station.

WHEREAS, the Louisville Naval Ordinance Station's primary work is repairing and rebuilding some of the Navy's most sophisticated weapons including the Phalanx, a defensive weapon that shoots down incoming missiles; and

WHEREAS, the Pentagon has recently approved spending 29 million dollars for a new metal plating system and the Department of Defense budget includes millions of dollars to upgrade the Phalanx; and

WHEREAS, the Naval Ordinance has a reputation of the highest quality and can compete with privately owned companies that do similar work; and

WHEREAS, with 2,300 employees, it is Jefferson County's fourth largest industrial employer with a 1989 payroll of 74.3 million dollars; and

WHEREAS, the Station contributes to Kentucky's economy in many ways by spending 13 million dollars a year with local suppliers and creating additional jobs throughout the community; and

WHEREAS, the Louisville Ordinance Station and dependent businesses pay 5 million dollars in Kentucky income taxes, 1.7 million dollars in local occupational taxes, 3.8 million in Kentucky sales tax and have a total payroll of 155.8 million dollars;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Louisville Naval Ordinance Station is engaged in essential activities necessary for the defense of the United States.

Section 2. That since moneys have already been approved for projects that the Station is qualified to accomplish, it should be allowed to do so.

Section 3. That this body urge President Bush and the Congress to allow this highly reputable station to continue fulfilling its mission.

Section 4. That a copy of this resolution be dispatched to the Naval Ordinance Station, the President of the United States, and members of Kentucky's Congressional Delegation.

HR 112 was adopted by voice vote.

Representative P. Clark moved that a call of the roll be taken to show co-sponsors of **HR 112**.

On the roll call the vote was yeas 74—Adkins, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Farrow, Ford, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Jackson, Jensen, Johnson, Kerr, Layman, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Napier, Nelson, Nett, Noland, Northup, Preston, Priddy, Pritchett, Rapier, Reinhardt, P. Richardson, Ridley, Riner, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, White, Worthington, Yates, Zimmerman. Nays 0.

Representative Adkins moved the adoption of the following **HR 115**:

HR 115, A RESOLUTION adjourning the House of Representatives in memory and honor of Charles Bradley.

With deepest reverence, we pay homage and tribute to the memory of Charles Bradley.

WHEREAS, Charles Bradley, a native of Yatesville, Lawrence County, Kentucky, was born on August 26, 1906, and traversed these earthly bounds on Tuesday, February 6, 1990; and

WHEREAS, Charles Bradley was a dedicated employee of the Kentucky Department of Highways until his retirement; and

WHEREAS, Charles Bradley was a member of the Masonic Lodge, the Independent Order of Odd Fellows, and a Kentucky Colonel; and

WHEREAS, Charles Bradley was the son of James N. and Laura Adkins Bradley; and

WHEREAS, Charles Bradley was the loving husband of Opal Pink Bradley, the father of four daughters, Laura Gray, Wanda Hayes, Agnes Lyons and Phyllis Dotson, and three sons, Charles Darrell Bradley, Tom Bradley and Steven Ray Bradley, seventeen grandchildren and seven great grandchildren, and the brother of Randall Bradley; and

WHEREAS, the passing of Charles Bradley has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its profound grief over the loss of Charles Bradley, and extends its sincere condolences to his family.

Section 2. That when the House of Representatives adjourns this day, Thursday, February 8, 1990, it does so in memory and honor of Charles Bradley.

Section 3. That funeral services will be conducted at 11:00 a.m., on Friday, February 9, 1990, at the Freewill Baptist Church in Louisa, Kentucky, with Reverend James A. Hayes and Reverend Paul Ray Diamond officiating, and burial following in Yatesville Memorial Cemetery. The family will receive visitors after 9:00 a.m., Thursday, February 8, 1990, at Heston and Wilson Funeral Home in Louisa, Kentucky, and one hour before service time, Friday, February 9, 1990, at Freewill Baptist Church in Louisa, Kentucky.

Section 4. That the Clerk of the House is directed to transmit ten copies of this resolution to Mrs. Opal Pink Bradley, HC-79, P. O. Box 470, Louisa, Kentucky 41230.

HR 115 was adopted by voice vote.

Representative Deskins moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Deskins moved the adoption of the following Legislative Citation No. 33. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the "mountain get-together" reception committee.

This body salutes your hospitality to the members and staff of the 1990 General Assembly at a "mountain get-together". The "mountain get-together" reception was hosted by volunteers interested in promoting and sharing Pike County heritage.

This prestigious body joins Representative Herbie Deskins in recognizing the members of the "mountain get-together" reception committee for their community spirit, dedication and hard work.

Representative Deskins individually honored the following members of the "mountain get-together" reception committee:

Carrie Cinnamond, Caria Corbin, Sophia Hays, Leon Huffman, Georgia Johnson, Gregory Johnson, Bill Owens, Ritchie Phillips, Ron Slone, Judy Vance, and Geri Kinder, Executive Director of the Pike County Chamber of Commerce.

Representative Deskins moved the adoption of the following Legislative Citation No. 32. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the members of the Pikeville High School Football Cheerleading squad.

This body proudly salutes the members of the Pikeville High School Football Cheerleading Squad.

Your high standard of performance helped to foster the spirit of the Pikeville Panthers State A Football Champions during their victorious season. Your skills and talents are demonstrated through your school loyalty.

This prestigious body joins Representative Herbie Deskins in congratulating the Pikeville High School Football Cheerleading Squad on your display of enthusiastic school spirit and wishes you and your team continuous victories.

Representative Deskins individually honored the following members of the Pikeville High School Football Cheerleading squad:

Kristy R. Blair, Joy D. Bush, Jennifer L. Deskins, Cynthia L. England, DeNiece M. Hall, Jonda R. Harris, Suzanne S. Kinzer, Pam L. Kowalski, Lori A. Mahan, Lacrisha D. Morris, Tracy W. Morris, Malisha A. Ratliff, Susan E. Templeman, Heather L. Thompson, and Sarah G. Walters.

Representative Stumbo moved that **HB 516** be reassigned to the Committee on Cities. Agreed.

Representative Stumbo moved that **HB 86** be recommitted to the Committee on Health and Welfare. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Riner moved that **HB 440** be withdrawn. Agreed.

Representative Barrows that he be withdrawn as co-sponsor of **HB 82**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 550, by Representative R. Smith: AN ACT relating to venue.

HB 551, by Representative Ballard: AN ACT relating to inheritance and estate taxes.

HB 552, by Representative Ballard: AN ACT relating to motor vehicle operators.

HB 553, by Representative A. Jones: AN ACT relating to exemptions from judgments or bankruptcy.

HB 554, by Representative Johnson: AN ACT relating to crimes and punishments.

HB 555, by Representatives Little and Deskins: AN ACT relating to community colleges.

HB 556, by Representatives Little and Deskins: AN ACT relating to community colleges.

HB 557, by Representatives Arnold, Crupper, B. Smith, Gedling, Farrow, Noland and Lefevers: AN ACT relating to agricultural finance and making an appropriation.

HB 558, by Representative P. Richardson: AN ACT relating to the procurement of banking services by the Commonwealth.

HB 559, by Representatives Gedling and Arnold: AN ACT relating to liens.

HR 117, by Representative Heleringer: A RESOLUTION honoring Bill Shoemaker.

Report of Committees

The Committee on Rules reported **HB 33, HB 46, HB 53, HB 67, HB 182, HB 194, HB 229, HB 271, HB 298, HB 354, HB 389, HCR 24, HCR 33** and **HCR 75** have been posted for passage in Orders of the Day, February 13, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, February 13, 1990: **HB 238**.

The Committee on Rules reported **SB 53, SB 54, SB 56, SB 59, SB 60, SB 61, SB 62, SB 117, SB 126, SB 127, SB 128, HB 14, HB 386** and **HB 433** have been posted for passage in Orders of the Day, February 14, 1990.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **HB 28, HB 353, HB 464.**

Natural Resources and Environmental Protection: **HB 142, HB 176, HB 416, HB 420, HJR 68.**

Banking and Insurance: **HB 532.**

Business Organizations and Professions: **HB 115, HB 297, HB 434.**

Elections and Constitutional Amendments: **HB 170, HB 453.**

Health and Welfare: **HB 102.**

State Government: **HB 302, HB 309, HB 409, HB 447, HB 462.**

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 to **HB 65**, by Representative Brown:

Amend printed copy of **HB 65** on page 4, line 13, delete in its entirety;

line 14, delete the words "***herein but may also receive***"

line 23 through 26, delete in their entirety and insert in lieu thereof:

"Section 6. There is hereby appropriated from the General Fund to the Kentucky Heritage Land Conservation Fund four and one-half millions dollars ($4,500,000) for fiscal year 1990-91 and four and one-half million dollars ($4,500,000) for fiscal year 1991-92."

Pages 5 through 8, delete in their entirety.

Floor Title Amendment No. 2 to **HB 65**, by Representative Brown:

Amend printed copy of **HB 65** by amending the title to read as follows:

"AN ACT relating to acquisition of natural areas, and making an appropriation."

Floor Amendment No. 4 to **HB 65**, by Representative Brown:

Amend printed copy of **HB 65** on page 8, after line 10, by inserting the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of Section 6 of this Act, effective after June 30, 1996, the tax rate provided for in KRS 142.050(2) shall be fifty cents (50) and the county clerk shall retain five percent (5%) of the fee and remit the entire balance to the county treasurer as provided in KRS 142.050(4)."

Floor Amendment No. 5 to **HB 65**, by Representative Rapier:

Amend printed copy of **HB 65** on page 1, line 19, after the word "***Resources,***" insert the following:

"***the commissioner of the Department of Parks,***"

Floor Amendment No. 1 to the Committee Substitute to **HB 339**, by Representative Ford:

Amend printed copy of HCS **HB 339** on page 1, lines 20 and 21, delete in their entirety;

Pages 2, 3, and 4, delete in their entirety;

On page 5, lines 1 through 11, delete in their entirety;

Line 12, after the word "Section" delete "3" and insert in lieu thereof "2";

On page 9, line 19, after the word "Section" delete "4" and insert in lieu thereof "3";

On page 12, line 19, after the word "Section" delete "5" and insert in lieu thereof "4";

On page 13, line 16, after the word "Section" delete "6" and insert in lieu thereof "5";

On page 14, line 11, after the word "Section" delete "7" and insert in lieu thereof "6";

On page 15, line 17, after the word "Section" delete "8" and insert in lieu thereof "7";

On page 16, line 26, after the word "Section" delete "9" and insert in lieu thereof "8";

On page 17, line 15, after the word "Section" delete "10" and insert in lieu thereof "9";

On page 18, line 16, after the word "Section" delete "11" and insert in lieu thereof "10";

On page 19, line 18, after the word "Section" delete "12" and insert in lieu thereof "11";

On page 13, line 7, after the word "Section" delete "13" and insert in lieu thereof "12";

On page 23, line 3, after the word "Section" delete "14" and insert in lieu thereof "13";

Line 12, after the word "Section" delete "15" and insert in lieu thereof "14";

On page 26, line 26, after the word "Section" delete "16" and insert in lieu thereof "15".

Floor Amendment No. 3 to **HB 214**, by Representative B. Richardson:

Amend printed copy of **HB 214** on page 32, line 25, to delete "." and insert "***; or***"; and

On page 32, between lines 25 and 26, to add the following:

"***(e) A person is disqualified to testify for himself concerning any verbal statement of, or any transaction with, or any action done or omitted to be done by an infant under fourteen (14) years of age, or by one***

(1) who has been adjudged mentally disabled or dead when the testimony is offered to be given except for the purpose, and to the extent, of affecting one who is living and who, when over fourteen (14) years of age and of sound mind, heard such statement or was present when such transaction took place or when such act was done or omitted, except in actions for personal injury, death, or damages to property by tortious acts unless:

1. The infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or

2. The person who has been adjudged mentally disabled shall, when of sound mind, have testified against such person, with reference thereto; or

3. The decedent, or a representative of, or someone interested in, his estate, shall have testified against such person, with reference thereto; or

4. An agent of the decedent or mentally disabled person, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify, with reference thereto.";

And on page 32, line 23, delete "***or***".

The Clerk announced the following meetings:

The Committee on State Government, February 13, 1990 at 1:30 p.m.

The Committee on Health and Welfare, February 13, 1990 at 1:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, February 9, 1990.

On the roll call the vote was yeas 79—Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Bronger, Brown Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Hancock, K. Harper, Hatcher, Jackson, Jensen, Johnson, A. Jones, Keith, Kerr, Lear, Lefevers, Lewis, Little, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, White, Worthington, Yates, Zimmerman. Nays 2—Heleringer, Lile.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 9, 1990

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Invocation, A Living History of Abe and Mary Todd Lincoln, delivered by Cliff and Joan Howard, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Adkins and Little.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 8, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 29**, **SB 35**, **SB 52**, **SB 75**, **SB 123**, **SB 145**, **SB 147**, **SB 170**, **SB 175**, **SB 178**, **SB 185**, **SB 194**, **SCR 20**, **SJR 36** and **HB 60** with Senate Amendment.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 217** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 9:08 a.m.)

HB 217 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 560, by Representative Lear: AN ACT relating to planning and zoning.

HR 118, by Representatives Barrows, LeMaster, Lear, Scorsone, Mack, Freibert, Curtsinger and P. Richardson: A RESOLUTION honoring Harry G. Barfield and his WLEX-TV 18 staff.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 543**, **HB 551**, **HB 557**.

Banking and Insurance: **HB 545**, **HB 558**.

Business Organizations and Professions: **HB 546**, **HB 547**.

Education: **HB 555**, **HB 556**.

Judiciary: **HB 550**, **HB 553**, **HB 554**, **HB 559**.

State Government: **HB 544**.

Transportation: **HB 548**, **HB 549**, **HB 552**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 470**.

Counties and Special Districts: **HB 347**.

Calendar

HB 19, **HB 59**, **HB 82**, **HB 245**, **HB 247**, **HB 256**, **HB 268**, **HB 272**, **HB 287**, **HB 300**, **HB 301**, **HB 310**, **HB 317**, **HB 342**, **HB 344**, **HB 351**, **HB 365**, **HB 376**, **HB 388**, **HB 394**, **HB 422**, **HB 424**, **HB 456**, **HB 472**, **HB 484**, **HJR 45** and **HJR 54** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 73, **HB 320** and **HB 404** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 264, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Amendment No. 2 to **HB 264**. Agreed.

Representative Kerr moved the adoption of Committee Amendment No. 3 to **HB 264**. Agreed.

Representative Kerr moved the adoption of Floor Amendment No. 1 to **HB 264**. Agreed.

Representative Kerr moved that **HB 264**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 9, 1990 roll call on **HB 264** - Appendix.)

HB 264, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 264**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 214, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Floor Amendment No. 2 to **HB 214**. Agreed.

Representative Lear moved the adoption of Committee Amendment No. 2 to **HB 214**. Agreed.

Representative B. Richardson moved the adoption of Floor Amendment No. 3 to **HB 214**. Rejected.

Representative Kerr moved the adoption of Floor Amendment No. 1 to **HB 214**. Rejected.

Representative Lear moved that **HB 214**, as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 22. (See February 9, 1990 roll call on **HB 214** - Appendix.)

HB 214, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 214**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 239 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HB 239** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 9, 1990 roll call on **HB 239** - Appendix.)

HB 239 was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 239** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 289 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved that **HB 289** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 9, 1990 roll call on **HB 289** - Appendix.)

HB 289 was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 289** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 335 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved that **HB 335** be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 9, 1990 roll call on **HB 335** - Appendix.)

HB 335 was passed and the title agreed to.

Representative Lyne moved that the vote by which **HB 335** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HCR 31** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 9, 1990 roll call on **HCR 31** - Appendix.)

HCR 31 was passed and the title agreed to.

Representative Gedling moved that the vote by which **HCR 31** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 48 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HCR 48** be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See February 9, 1990 roll call on **HCR 48** - Appendix.)

HCR 48 was passed and the title agreed to.

Representative Gedling moved that the vote by which **HCR 48** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 9 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **SB 9** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 9, 1990 roll call on **SB 9** - Appendix.)

SB 9 was passed and the title agreed to.

Representative Crupper moved that the vote by which **SB 9** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 134, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Turner moved the adoption of Committee Amendment No. 1 to **HB 134**. Agreed.

Representative Turner moved that **HB 134**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 9, 1990 roll call on **HB 134** - Appendix.)

HB 134, as amended, was passed and the title agreed to.

Representative Turner moved that the vote by which **HB 134**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 270 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 270** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 9, 1990 roll call on **HB 270** - Appendix.)

HB 270 was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 270** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills

HB 561, by Representative Priddy: AN ACT relating to collective bargaining for firefighters.

HB 562, by Representative McElroy: AN ACT relating to the leasing and vesting of title to severed mineral interests in surface owners.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Natural Resources and Environmental Protection **HB 293**, **HB 446**.

Business Organizations and Professions **HB 40**.

Economic Development and Tourism **HB 419**.

Agriculture and Small Business **HB 393**, **HB 441**, **HB 458**, **HB 503**.

Motions, Petitions and Communications (Continued)

Representative Richards moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Richards moved the adoption of the following Legislative Citation No. 31. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby salutes Bowling Green, Kentucky. Bowling Green ranks among the top 25 fastest growing micropolitan communities in the United States. A recent article in American Demographics ranked Bowling Green 22nd among the nation's cities with a population base of 15,000 in the city and 40,000 in the county. Micropolitan communities are being recognized by American business leaders as unique opportunities for economic growth and development. Your community, with its well-established record of cooperative efforts to bring measured growth to the area, is in an excellent position to benefit from this change.

This prestigious body joins Representative Jody Richards in saluting Bowling Green, Kentucky for this exciting distinction.

Representative Gray moved the adoption of the following **HR 108**:

HR 108, A RESOLUTION adjourning the House of Representatives in memory and honor of Dr. Grace James.

WHEREAS, Dr. Grace James of Louisville, Kentucky passed away on January 14, 1989; and

WHEREAS, Dr. Grace James was born August 12, 1923, in Charleston, West Virginia; and

WHEREAS, Dr. Grace James was the loving daughter of Stella G. and Edward L. James, Sr.; and

WHEREAS, Dr. Grace James graduated from West Virginia State College in Institute, West Virginia; and

WHEREAS, Dr. Grace James graduated from Meharry Medical College in Nashville, Tennessee; and

WHEREAS, Dr. Grace James received her postgraduate training in child psychiatry at Creedmoor State Hospital and Albert Einstein College of Medicine in New York City, New York; and

WHEREAS, Dr. Grace James served her medical internship at Harlem Hospital from 1950 to 1953; and

WHEREAS, Dr. Grace James formed the West Louisville Health Education Center in 1981, distributing health education to the West End Community in an effort to curb the rate of teenage pregnancies and lower the infant mortality rate; and

WHEREAS, Dr. Grace James was the first black woman to gain membership in the Jefferson County Medical Society, the first black staff member of the old Louisville General Hospital and the first black woman on the faculty of the University of Louisville School of Medicine; and

WHEREAS, Dr. Grace James was elected President of the Falls City Medical Society in 1973; and

WHEREAS, Dr. Grace James served as third Vice President of the National Medical Association and as Chairman of the Louisville Chapter of the National Council of Negro Women; and

WHEREAS, Dr. Grace James served as President of the Louisville Chapter of the National Association for the Advancement of Colored People; and

WHEREAS, within her was a strength conditioned by a family well known for their involvement in the struggle for equal rights; and

WHEREAS, Dr. Grace James was the devoted mother of David Marshall James; and

WHEREAS, a memorial service was held for Dr. James in Louisville, Kentucky on January 18, 1989, and at the First Baptist Church of Charleston, West Virginia on January 21, 1989; and

WHEREAS, the passing of Dr. Grace James has left a void that will be difficult to fill and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement and loss upon the passing of Dr. Grace James.

Section 2. That when the House of Representatives adjourns this day, Friday, January 26, 1990, it does so in memory and honor of Dr. Grace James.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Mr. David Marshall James, 1601 Spring Drive, Louisville, Kentucky, 40205.

HR 108 was adopted by voice vote.

Representative Lyne moved the adoption of **HJR 119**.

The Speaker ruled that **HJR 119** must go through the same legislative process as a bill.

Representative Noe moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Noe moved the adoption of the following Legislative Citation No. 34. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Harlan Independent High School Basketball Cheerleading Squad.

This body proudly salutes the members of the Harlan Independent High School Basketball Cheerleading Squad.

Your high standard of performance helped to foster the spirit of the Harlan Green Dragons, 13th Regional Basketball Champions, during their victorious season. Your skills and talents are demonstrated through your school loyalty.

This prestigious body joins Representative Roger Noe in congratulating the Harlan Independent High School Basketball Cheerleading Squad on your display of enthusiastic school spirit. We wish you and your team continuous victories.

Representative Noe individually honored the following members of the Harlan Independent High School Basketball Cheerleading Squad:

Brandy Asher, Whitney Castle, Delight Hatfield, Young Lee, Lucy Miller, Jill Payne, Leah Payne, Deborah Slaven, Leslie Smith, Gina Souleyret, and Selena Turner.

Representative Noe moved the adoption of the following Legislative Citation No. 35. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Harlan Independent High School Basketball Team.

This body proudly salutes the team members and coaches of the Harlan Independent High School for winning the 13th Regional Class A Basketball Tournament. This victory grants you the opportunity to advance to the "Sweet Sixteen" Tournament. Your excellent record of 17-4 reflects hard work, school loyalty, competitive spirit and a positive team effort. The Harlan Green Dragons should be proud of the honor and recognition you have bestowed upon your school and community. May the memories and merits of this accomplishment remain with you and guide you through future endeavors.

This prestigious body joins Representative Roger Noe in saluting you and may many more victories crown your efforts.

Representative Noe individually honored the following members of the Harlan Independent High School Basketball Team:

Jeff Brock, Jack Coldiron, and Managers Jason Goodman and Marcus Hollingsworth.

Representative Ackerson moved that **HB 414** be withdrawn. Agreed.

Representative McElroy moved that **HB 44** be withdrawn. Agreed.

Representative Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Turner moved that his vote be changed from "nay" to "yea" on **HB 60**. Agreed.

Representative Gedling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gedling moved that his vote be changed from "yea" to "nay" on **HB 329**. Agreed.

Representative Hatcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hatcher moved that he be recorded as voting "yea" on **HB 264**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 134**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 289**. Agreed.

Representative Ackerson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ackerson moved that he be recorded as voting "yea" on **HB 299**, **HB 217**, **HB 253**, **HB 215**, **HB 83**, **HR 112**, **HR 113** and "nay" on **HB 323**, **HB 212**, **HB 338**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 25, Representative Reinhardt; **HB 134**, Representative Bruce; **HB 141**, Representative Reinhardt; **HB 214**, Representative Ackerson; **HB 239**, Representatives Butler, Lile, Ark; **HB 289**, Representatives Butler, Lile, Stumbo, Todd; **HB 342**, Representative J. Harper; **HB 447**, Representative A. Jones; **HCR 31**, Representatives P. Clark, Stokes; **HJR 105**, Representative Cyrus.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 358**, by Representative Clarke:

Amend printed copy of **HB 358** on page 7, after line 6, by adding the following:

"SECTION 5. KRS 136.030, is amended to read as follows:

(1) The individual stockholders of a corporation shall not be required to list their shares for ad valorem taxation so long as the corporation pays taxes to the state of Kentucky on at least seventy-five percent (75%) of its total property, wherever located, provided, however, that bonds and obligations of the United States of America and its possessions and bonds and obligations of the state of Kentucky, its instrumentalities and its political subdivisions and their instrumentalities shall not be considered in the computation of the total property of the corporation, wherever located, nor in the computation of the amount of property upon which the corporation pays ad valorem taxes to the state of Kentucky. In order to obtain this exemption the stockholder must furnish satisfactory proof to the revenue cabinet that at least seventy-five percent (75%) of the total property of the corporation as hereinabove specified is taxed in the state of Kentucky.

(2) Every corporation organized under the laws of this state, or doing business in this state, whose stock is liable to assessment and taxation under subsection (1) of this section, except banks, trust companies, or combined banks and trust companies doing business in this state and domestic life insurance companies, shall by February 15 of each year make a true and correct report to the revenue cabinet signed by its president, secretary, treasurer or other chief officer, giving the names and addresses of residents of this state who hold its shares of stock and outstanding bonds as of January 1 previous thereto, and also the transfer of any of its stocks or bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(3) For purposes of determining the tax status, under subsection,1 of this Section, of the shareholders of a holding company with subsidiaries subject to the provisions of KRS 136.120(1), the property of the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be property of the holding company, and ad valorem taxes paid to the state of Kentucky by the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be paid by the holding company."

Floor Amendment No. 1 to **HB 394**, by Representative Ford:

Amend printed copy of **HB 394** on page 1, line 11, by deleting the words "***will, or under the laws of descent,***"; and

On page 1, lines 4 and 5, by deleting the words "***will or under the laws of descent,***"; and

On page 1, after line 19, add the following:

"***(3) In the event of transfer of real property by will or under the laws of descent, an affidavit shall be filed with the county clerk and shall contain the following:***

(a) A statement that the transfer was by will or under the laws of descent; and

(b) An acknowledgement signed by the personal representative of the estate, or the agent or attorney of same, as to the full estimated value of the property."; and

On page 1, line 20, delete "***(3)***" and insert in lieu thereof "***(4)***"; and

On page 3, line 22, to delete "***subsection (2)***" and insert in lieu thereof "***subsections (2) or (3)***".

The Clerk announced the following meetings:

The Committee on Natural Resources and Environmental Protection, February 13, 1990 at 2:00 p.m. in Room 109.

The Committee on Appropriations and Revenue, February 13, 1990 at 10:00 a.m.

The Budget Review Subcommittee on General Government, February 12, 1990 at 10:00 a.m.

The Budget Review Subcommittee on Transportation, February 13, 1990 at 12 noon.

The Committee on Agriculture and Small Business, February 13, 1990 at 9:00 a.m.

The Committee on Health and Welfare, February 13, 1990 at 1:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Tuesday, February 13, 1990.

On the roll call the vote was yeas 83—Ackerson, Allen, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Long, Lyne, Mack, Maggard, Mason, McBee, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 3—Altman, Curtsinger, Lile.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 13, 1990

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Steve Cook, Georgetown College, Georgetown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Butler.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 9, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 4**, **SB 99**, **SB 168** and **HB 76** with Senate Amendment.

Introduction of Bills and Resolutions

HB 563, by Representative Moberly: AN ACT relating to ground water.

HB 564, by Representatives Moberly, T. Jones, Noe, Hancock, Long and Barrows: AN ACT relating to oil and gas.

HB 565, by Representatives Arnold, Gregory, Pritchett, Farrow, Siler, Blevins, Heleringer, J. Harper, Zimmerman, Worthington, T. Jones, Keith, Turner, Castleman, Bentley, Rapier, Ark, Hancock, Todd, Layman, Barrows, Nett, Gedling, B. Richardson, P. Richardson, Hourigan, Long, Lyne, White, Scorsone, Maggard, Reinhardt, Noe, Stokes: AN ACT relating to special districts and declaring an emergency.

HB 566, by Representative Lewis: AN ACT relating to the practice of social work.

HB 567, by Representative Lewis: AN ACT relating to driving under the influence.

HB 568, by Representative Lewis: AN ACT relating to the practice of social work.

HB 569, by Representative Priddy: AN ACT relating to fire districts.

HB 570, by Representatives Priddy, L. Clark, Burch, Northup, Ward, Butler, Bronger, P. Clark, Hatcher, Nett, Casebier, O'Brien and Gray: AN ACT relating to dogs.

HB 571, by Representatives Priddy, Stumbo, Bronger, Sheehan, L. Clark, P. Clark, McBee, Donnermeyer, Burch, Reinhardt: AN ACT relating to peace officers.

HB 572, by Representative Little: AN ACT relating to the transportation of students of the Kentucky School for the Deaf or the Kentucky School for the Blind.

HB 573, by Representative Priddy: AN ACT relating to theft by deception.

HJR 119, by Representative Lyne: A JOINT RESOLUTION to honor and memorialize the late Robert Penn Warren.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 9** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:07 p.m.)

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 175**.

Cities: **HB 560**.

Counties and Special Districts: **SCR 20**.

Economic Development and Tourism: **SB 178.**

Education: **SB 75, SB 123, SB 170.**

Elections: **SB 145, SB 147.**

Labor and Industry: **HB 561.**

Natural Resources and Environmental Protection: **HB 562, SB 194.**

State Government: **SB 29, SB 35, SB 185.**

Transportation: **SB 52, SJR 36.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 156, HB 516.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 128** as a Consent Bill and **HB 232** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 232** is as follows:

HB 232, AN ACT relating to retirement sick leave credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the board of trustees of the Kentucky Retirement Systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit***, and the last participating Kentucky Employees Retirement Systems employer shall pay*** [~~if the member pays~~] to the retirement system the value of the additional service credit based on the formula adopted by the board. All of a state policeman's sick leave balance, expressed in months, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652.

(3) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the board that a sick leave program has been formally adopted and is universally administered within the agency.

The Committee on Appropriations and Revenue reported **HB 356** with Committee Amendment attached thereto, **HB 362** with Committee Amendment attached thereto, **HB 391** with Committee Amendment attached thereto, and **HB 465** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 356, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.110 is amended to read as follows:

(1) The Revenue Cabinet shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be final if not protested in writing to the cabinet within ***ninety (90)*** [~~thirty~~ ~~(30)~~] days from the date

of notice. ***The*** [~~Such~~] protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the cabinet may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of ***the*** [~~such~~] extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the cabinet. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the cabinet shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the cabinet, generally state the issues in controversy, the cabinet's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the cabinet shall issue ***the*** [~~such~~] ruling within thirty (30) days from the date the request is received by the cabinet.

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.

The Committee Amendment No. 1 to **HB 356** is as follows:

Amend printed copy of **HB 356** on page 1, line 2, by inserting after the word, "Cabinet", the phrase "***, or other state agencies which administer the tax,***".

HB 362, AN ACT relating to claims allowed by courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.020 is amended to read as follows:

(1) Within three (3) working days after the first and fifteenth of each month, the ***sheriff, or any other public official with a claim payable from the State Treasury for duties performed in*** [~~clerk of~~] any court of the Court of Justice shall make out ***the claim*** and ***have it certified by the judge of the court as allowable for payment*** [~~certify an alphabetical list of all claims payable out of the State Treasury that have been allowed by the court~~], and transmit the list to the Finance and Administration Cabinet. ***The claim approved by the judge of the court shall serve as an order of allowance notwithstanding any statutory provision to the contrary***[~~, and no warrant for any claims requiring the approval of a court shall be issued until the list has been received by the Finance and Administration Cabinet. The alphabetical list of claims shall serve as a certified copy of orders of allowance by the court for each and every claim listed thereon, and notwithstanding any statutory provision to the contrary, a copy of the order of allowance shall not be required for any claim listed thereon before payment may be made unless deemed necessary by the Finance and Administration Cabinet~~]. The Finance and Administration Cabinet shall keep a separate record of all claims allowed in each county, noting the number and amount of each warrant issued for the payment of such claims.

(2) The order of any court authorized by law to approve and allow fee-bills, settlements, credits, charges and other claims against the State Treasury shall not be treated as a judgment, or made conclusive against the state, but shall only be regarded as prima facie evidence of the correctness and legality of the fee-bill, settlement, credit, charge or claim. The Finance and Administration Cabinet, if it believes such fee-bill, settlement, credit, charge or claim to be fraudulent, erroneous or illegal, may, upon the advice of the Attorney General, refuse to pay and may contest the claim in the Franklin Circuit Court, which shall have exclusive jurisdiction of all actions against the Finance and Administration Cabinet to compel the payment of claims against the State Treasury.

The Committee Amendment No. 1 to **HB 362** is as follows:

Amend printed copy or **HB 362** on page 1, line 10, by bracketing and striking through "Finance and"; and

On page 1, line 11, by bracketing and striking through "Administration Cabinet" and inserting in lieu thereof "***Department of Local Government***"; and

On page 2, line 2, by bracketing and striking through "Finance and Administration"; and

On page 2, line 3, by bracketing and striking through "Cabinet" and inserting in lieu thereof "***Department of Local Government***"; and

On page 2, line 12, by bracketing and striking through "Finance and"; and

On page 2, line 13, by bracketing and striking through "Administration Cabinet" and inserting in lieu thereof "***Department of Local Government***"; and

On page 2, line 18, by bracketing and striking through "Finance and"; and

On page 2, line 19, by bracketing and striking through "Administration Cabinet" and inserting in lieu thereof "***Department of Local Government***".

HB 391, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.500 is amended to read as follows:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the Revenue Cabinet as provided by the laws of the Commonwealth and if ***the*** [~~such~~] person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if ***the*** [~~such~~] person has sought but exhausted all administrative and judicial review so that the assessment is final, due and owing, [~~then~~] the secretary of revenue or his delegate may cause a demand to be made on the person for the payment thereof. If the tax remains unpaid for ten (10) days after the demand, [~~then~~] the secretary or his delegate may levy upon and sell all property and rights to property found within the Commonwealth belonging to ***the*** [~~such~~] person or on which there is a lien provided by KRS 134.420, except ***the*** [~~such~~] property ***that*** [~~as~~] is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427, for the payment of the amount of the tax, penalty, interest and cost of the levy.

(2) As soon as practicable after seizure of property, notice in writing shall be given by the secretary or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. ***The*** [~~Such~~] notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(3) The secretary or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. ***The*** [~~Such~~] notice shall be published once each week for three (3) successive weeks. In addition, ***the*** [~~such~~] notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.

(4) If any property liable to levy is not divisible, so as to enable the secretary or his delegate by sale of a part thereof to raise the whole amount of the tax, penalty, interest and cost of the levy, the whole of ***the*** [~~such~~] property shall be sold.

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the secretary or his delegate may offer ***the*** [~~such~~] items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The secretary or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of ***the*** [~~such~~] payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the secretary or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the secretary, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. ***If*** [~~In the event of such~~] readvertisement and sale ***occur***, any new purchaser shall receive ***the*** [~~such~~] property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by ***the*** [~~such~~] defaulting purchaser shall be forfeited.

(8) If the secretary or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that ***the*** [~~such~~] property cannot be kept without great expense, he shall appraise the value of ***the*** [~~such~~] property and, if the owner of the property can be readily found, the secretary or his delegate shall give him notice of ***the*** [~~such~~] determination of the appraised value of the property. The property shall be returned to the owner if, within ***the*** [~~such~~] time [~~as may be~~] specified in the notice, the owner pays to the secretary or his delegate an amount equal to the appraised value, or gives bond in ***the*** [~~such~~] form, with ***the*** [~~such~~] sureties, and in ***the*** [~~such~~] amount as the secretary or his delegate determines to be appropriate in the circumstances. If the owner does not pay ***the*** [~~such~~] amount or furnish ***the*** [~~such~~] bond in accordance with this subsection, the secretary or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than five (5) years after the assessment becomes final.

(10) The term "levy" as used in this section ***shall include*** [~~includes~~] the power of distraint and seizure by any means. Except as otherwise provided in KRS 131.510(2)(a), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or his delegate may levy upon property or rights to property, he may seize and sell ***the*** [~~such~~] property or rights whether real, personal, tangible or intangible.

(11) Notwithstanding the provisions of KRS Chapters 45, 45A and 56, the cabinet may take all necessary steps to provide for the protection, maintenance, or transportation of all property seized by the cabinet pursuant to the provisions of this section, including, but not limited to, negotiating directly for the procurement of contractual services, including professionals, supplies, materials, equipment or the leasing of real and personal property. Every effort shall be made to effect a competitively established price for purchases made pursuant to this section.

Section 2. KRS 134.420 is amended to read as follows:

(1) The state and each county, city or other taxing district shall have a lien on the property assessed for taxes due them respectively for five (5) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation or any means [~~whatever~~] except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering ***the*** [~~such~~] taxes. The lien shall include all interest, penalties, fees, commissions, charges and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated. ***Every city of the third, fourth, fifth and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.***

(2) If any person liable to pay any tax administered by the Revenue Cabinet, other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(3) The lien imposed by subsection (2) of this section shall arise at the time the assessment is made by the Revenue Cabinet or at the time the return is filed by the taxpayer with insufficient payment and shall be enforceable until the liability is paid or extinguished through the appeal process enumerated in KRS 131.110 and 131.340.

(4) The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the secretary of the Revenue Cabinet or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the Revenue Cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

[~~(2) The state shall have a lien of equal rank with the lien provided in subsection (1) of this section on all property of a taxpayer who owes any property tax, license tax, inheritance or estate tax, excise tax, income tax, or other tax, when such taxes are not included in or covered by the lien provided in subsection (1) of this section. This lien shall arise at the time any assessment becomes delinquent, and it shall continue until the amount of the original assessment and any subsequent assessments of liability for taxes, fees, penalties, interest or costs are fully paid. The lien shall attach to all interest in property, either real or personal, tangible or intangible, in this state then owned or subsequently acquired by the person against whom the assessment is made. The revenue cabinet may file notice of the lien and every city of the third, fourth, fifth and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property and such notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens. Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the revenue cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The lien of the Commonwealth of Kentucky for taxes shall be superior to all liens and security interests created under Kentucky law except that nothing in this subsection shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk may charge a fee pursuant to KRS 64.012 for filing the notice of lien or releasing the lien. The fees for filing or releasing the lien shall be paid by the taxing authority filing same and shall become a part of the lien as an added cost of the delinquent taxpayer to be paid by him as a part of the amount necessary to release the lien. The lien shall be released by the taxing authority that filed the notice of lien.~~]

Section 3. KRS 382.335 is amended to read as follows:

(1) No county clerk shall receive or permit the recording of any instrument by which the title to real estate or personal property, or any interest therein or lien thereon, is conveyed, granted, encumbered, assigned or otherwise disposed of; nor receive any instrument or permit any instrument, provided by law, to be recorded as evidence of title to real estate; and shall not receive or permit any instrument, relating to the organization or dissolution of a private corporation, unless ***the*** [~~such~~] instrument has endorsed on it, a printed, typewritten or stamped statement showing the name and address of the individual who prepared the instrument, and ***the*** [~~such~~] statement is signed by ***the*** [~~such~~] individual.[~~, provided, however, that~~] The person who prepared the instrument may execute his signature by affixing a facsimile of his signature on the instrument. This subsection shall not apply to any instrument executed or acknowledged prior to July 1, 1962.

(2) No county clerk shall receive or permit the recording of any instrument by which the title to real estate or any interest therein is conveyed, granted, assigned or otherwise disposed of unless ***the*** [~~such~~] instrument contains the mailing address of the grantee or assignee. This subsection shall not apply to any instrument executed or acknowledged prior to July 1, 1970.

(3) This section ***shall*** [~~does~~] not apply to wills ***or to statutory liens in favor of the Commonwealth.***

(4) The receipt for record and recording of any instrument by the county clerk without compliance with the provisions of this section shall not prevent ***the*** [~~such~~] record of filing of the instrument from becoming notice as otherwise provided by law, nor impair the admissibility of the record as evidence.

Section 4. KRS 281.602 is amended to read as follows:

The department of vehicle regulation shall have the authority to file the notice of a lien with the county clerk prescribed in subsection (2) ***through (5)*** of KRS 134.420, with respect to any license tax, excise tax, motor fuel tax or other motor vehicular tax administered by the bureau.

The Committee Amendment No. 1 to **HB 391** is as follows:

Amend printed copy of **HB 391** on page 6, line 7, after the word "***section.***" A new sentence to read as follows "***The cabinet shall report any procurements of contractual services, supplies, materials, equipment, or the leasing of real and personal property, to the Secretary of the Finance and Administration Cabinet within sixty days of the transaction.***"

HB 465, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.230 is amended to read as follows:

(1) The sheriff shall, before he qualifies and before he assumes the duties of the office for the first time, enter into bond with surety for the faithful performance of his duties as revenue collector. This bond shall cover liability to account, as provided by law, for all charges of taxes made against him, and for all money received by him as revenue collector from the date he assumes the duties of the office to and including ***July*** [~~May~~] 31 of the same year. He shall enter into bond with surety thereafter before or as of ***August*** [~~June~~] 1 of each succeeding year of the term of his office, except that the expiration date of the bond for the last year in the term shall be to and including March 15. The county judge/executive shall hold a hearing at any time the sheriff may request for the purpose of executing bond.

(2) The county judge/executive, except in case of a corporate surety, shall judge of the sufficiency of the surety, and in no case shall sureties be taken who are not jointly worth, subject to execution after the payment of all their debts and liabilities, a sum equal to the aggregate amount of state tax receipts that will probably be received by the sheriff during the year or period succeeding the execution of the bond. Where a corporate surety bond is offered, it shall be for a sum not less than the largest amount of state tax receipts that the sheriff will probably have in his possession at any one time. The county judge/executive, with the approval of the Revenue Cabinet, shall determine the amount of the corporate surety bond and judge of the sufficiency of the surety.

(3) The county judge/executive may require the sheriff to give additional bond, with good surety to be approved by the county judge/executive, whenever the county judge/executive deems it necessary in the interest of the state or county.

Section 2. KRS 134.325 is amended to read as follows:

Each sheriff shall make his settlement with the Revenue Cabinet for all taxes collected for the Commonwealth before ***August*** [~~June~~] 1 of each year during his term of office. In the event that any sheriff resigns, dies or otherwise vacates his office, the settlement shall be made within thirty (30) days from the date that the office is vacated. Any sheriff who shall fail to make the settlement as required by law shall be subject to indictment in the county of his residence and fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 3. KRS 134.330 is amended to read as follows:

(1) No tax bill or tax book shall be delivered to the sheriff after ***July 31*** [~~May 30~~] of the second or any subsequent calendar year of the sheriff's regular term until he exhibits a quietus from the Revenue Cabinet and from the fiscal court of his county for the preceding tax period and his revenue bond for the next tax year.

(2) If the tax records of a county are destroyed by fire, lost, stolen or mutilated so as to require reassessment of the property in the county or a re-certification of the tax bills, the sheriff shall have five (5) months from the time he receives the recertified tax bills within which to make settlement with the cabinet and the fiscal court, and to receive his quietus from the cabinet and the fiscal court.

Section 4. KRS 134.370 is amended to read as follows:

(1) The sheriff, in reporting to the fiscal court or the Revenue Cabinet the names of persons owing uncollectible delinquent tax claims ***other than certificates of delinquency***, shall submit to the fiscal court all tax bills in his possession against those persons. That court ***shall then direct the county attorney to prosecute all remedies provided*** [~~may arrange~~] for the collection of these [~~uncollected~~] bills [~~as it deems proper, if its action does not conflict with any powers and duties vested in the secretary of revenue, but no arrangement for the collection of the bills involving taxes due the state shall be valid without the approval of the secretary. Any bills not disposed of in one (1) year by the fiscal court may be disposed of by the secretary~~]. ***If the***

county attorney has taken no action for the collection of the bills within one (1) year, the collection duties may be assumed by the Revenue Cabinet. Uncollectible tax claims shall bear interest at twelve percent (12%) per annum from the date the sheriff makes settlement with the cabinet and receives credit therefor. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) Each county attorney who fulfills his duties with regard to the collection of these delinquent tax bills, shall be entitled to twenty percent (20%) of the amount due each taxing district, whether the tax claim is paid voluntarily or is paid under court order. The commission shall be paid by the county clerk when making distributions of the amounts collected. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit. When the cabinet performs the duties of the county attorney without his assistance or cooperation, the fee which would otherwise be paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

Section 5. KRS 134.450 is amended to read as follows:

(1) Any tax claim offered for sale as prescribed in KRS 134.430 and 134.440 shall be sold to any person for cash. If there is more than one (1) willing purchaser at the sale, the one (1) having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person the sale shall be made to the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the Revenue Cabinet, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible bid in the amount of the tax claim is received, the sheriff shall purchase it for the state, county and taxing districts having an interest in the tax claim. In such case the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one (1) other than the state, county or taxing district is the purchaser.

(3) The sheriff shall return all certificates of delinquency to the county clerk, after he has made his settlement with the state and not later than ***August*** [~~June~~] 2 of each year, and the clerk shall file them. If the sheriff fails to return the certificates he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

Section 6. KRS 134.500 is amended to read as follows:

(1) Within fifty (50) days after the issuance of a certificate of tax delinquency to the state, county and taxing district, the county attorney shall cause a notice of the purchase to be ***mailed*** [~~served by the sheriff personally or~~] by certified mail, return receipt requested, on the person in whose name the property was assessed, and advise him that the certificate is a lien of record against his land that bears interest at twelve percent (12%) per annum, and if not paid the county attorney will proceed as provided by law to collect same. A copy of the [~~return of the sheriff or the~~] return receipt shall be filed by the ***county attorney*** [~~sheriff~~] in the office of the county clerk in the manner prescribed by the Revenue Cabinet. Failure to prepare such notice shall not affect the validity of the claim of the state, county and taxing district. ***The cost of mailing the notice shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the mailing expense.***

(2) The county attorney shall prosecute the remedy or remedies provided in this chapter that are most likely to effect collection of the amount due on the certificate of delinquency. Upon the failure of the county attorney to give the notices provided in this section, or to prosecute the remedies for collection of certificates within twelve (12) months after the right to collect accrued, or to duly complete the performance of any other duties necessary to collect the claims of the state, county and taxing districts for taxes, the Revenue Cabinet may perform such duties.

(3) The county attorney who prepares the notice and has it ***mailed and*** filed, as provided in subsection (1) of this section, and performs his other duties in respect to the certificate of delinquency, shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and such commission shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit.

When the cabinet performs the duties of the county attorney without his assistance or cooperation, the fee which would otherwise be paid the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(4) Any action on behalf of the state, county and taxing districts authorized by this section or by KRS 134.470, 134.490 or 134.540 must be filed on relation of the secretary of revenue, and the petition shall be sent to the cabinet, which may require revision thereof in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all such actions, and may send him special assistance when the secretary deems such assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who cooperates in prosecuting the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

The Committee Amendment No. 1 to **HB 465** is as follows:

Amend printed copy of **HB 465** on page 7, line 8 by adding the word "***postal***" before the word "***cost***"

and on line 11, by deleting the words, "***mailing expense***" and inserting in their place the word, "***postage***".

The Committee Amendment No. 2 to **HB 465** is as follows:

Amend printed copy of **HB 465** on page 8, line 19, by enclosing in brackets and striking through the word "shall" and inserting after the word "petition" the word "***may***".

The Committee on Appropriations and Revenue reported **HB 476**, **SB 46**, **SCR 4** and **SCR 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 476, AN ACT relating to inheritance and estate taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.070 is amended to read as follows:

The tax upon transfers of property as defined in the preceding sections of this chapter shall be at the following rates:

(1) Class A. In case the transfer is to or for the benefit of a parent, surviving spouse, child by blood, stepchild, child adopted during infancy or a grandchild who is the issue of a child by blood, of a stepchild or of a child adopted during infancy, the tax, subject to the provisions of KRS 140.080, shall be:

On its value not exceeding $20,000	2%
On its value exceeding $20,000, but not exceeding $30,000	3%
On its value exceeding $30,000, but not exceeding $45,000	4%
On its value exceeding $45,000, but not exceeding $60,000	5%
On its value exceeding $60,000, but not exceeding $100,000	6%
On its value exceeding $100,000, but not exceeding $200,000	7%
On its value exceeding $200,000, but not exceeding $500,000	8%
On its value exceeding $500,000	10%

(2) Class B. In case the transfer is to or for the benefit of a brother, sister, brother or sister of the half-blood, nephew, niece, or a nephew or niece of the half-blood, daughter-in-law, son-in-law, aunt or uncle, ***or a great-grandchild who is the grandchild of a child by blood, of a stepchild or of a child adopted during infancy,*** the tax, subject to the provisions of KRS 140.080, shall be:

On its value not exceeding $10,000	4%
On its value exceeding $10,000, but not exceeding $20,000	5%
On its value exceeding $20,000, but not exceeding $30,000	6%
On its value exceeding $30,000, but not exceeding $45,000	8%

On its value exceeding $45,000, but not exceeding $60,000	10%
On its value exceeding $60,000, but not exceeding $100,000	12%
On its value exceeding $100,000, but not exceeding $200,000	14%
On its value exceeding $200,000	16%

(3) Class C. In case the transfer is to or for the benefit of any educational, religious or other institutions, societies or associations, or to any cities, towns or public institutions not exempted by KRS 140.060, or to any person not included in either Class A or Class B, the tax, subject to the provisions of KRS 140.080 shall be:

On its value not exceeding $10,000	6%
On its value exceeding $10,000, but not exceeding $20,000	8%
On its value exceeding $20,000, but not exceeding $30,000	10%
On its value exceeding $30,000, but not exceeding $45,000	12%
On its value exceeding $45,000, but not exceeding $60,000	14%
On its value exceeding $60,000	16%

Section 2. KRS 140.090 is amended to read as follows:

(1) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the statute of limitations;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes, in the proportion which the net estate in Kentucky subject to federal estate taxes bears to the total net estate everywhere subject to federal estate taxes; all calculations are subject to approval by the Revenue Cabinet;

(e) Drainage, street or other special assessments due and unpaid which are a lien on said property;

(f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total ***five thousand dollars ($5,000)*** [~~twenty-five hundred dollars ($2,500)~~];

(g) Commission of executors and administrators in the amount actually allowed and paid;

(h) Cost of administration, including attorney's fees actually allowed and paid.

(2) Notwithstanding the provisions of KRS 404.040, the debts of a deceased wife, subject to the exception in subsection (1)(a), shall be allowed in calculating the distributive shares of her estate for purposes of this chapter, provided such debts are paid from the proceeds of her estate.

Section 3. KRS 140.265 is amended to read as follows:

Notwithstanding any of the provisions of this chapter, any employer ***or insurance company*** may pay the proceeds where same are not in excess of twenty-five thousand dollars ($25,000) of any profit sharing, stock bonus, thrift, or pension plan due at the death of the decedent to the person entitled thereto as soon as it has mailed to the Revenue Cabinet a notice, in ***a*** [~~such~~] form as the cabinet may prescribe, setting forth the fact of ***the*** [~~such~~] payment. The cabinet may by ***administrative*** regulation dispense with the requirement for this notice as to payment of proceeds amounting to one thousand dollars ($1,000) or less.

Section 4. KRS 140.300 is amended to read as follows:

As used in KRS 140.310 to 140.360 these words shall have the following meaning:

(1) "Agricultural land" means that real estate which is defined in KRS 132.010(9).

(2) "Horticultural land" means that real estate which is defined in KRS 132.010(10).

(3) "Agricultural or horticultural value" means the value as defined in KRS 132.010(11).

(4) "Qualified real estate" means real property which:

(a) Is either horticultural or agricultural land;

(b) Has been used for agricultural or horticultural purposes for five (5) years prior to the death of the owner of the real estate or a joint owner thereof; and

(c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of decedent for Kentucky inheritance tax purposes.

(5) "Qualified person" means the spouse of [~~and/or the children (including adopted children) of and their spouses, if any, of~~] a deceased owner of agricultural or horticultural land***, the children, adopted children and stepchildren of that deceased owner, the spouses and issue of that deceased owner's children, adopted children and stepchildren,*** and is a person who proposes to devote the real property to agricultural or horticultural purposes for at least five (5) years after the death of the decedent in whose estate the agricultural or horticultural land is subject to assessment.

Section 5. The following KRS section is repealed:

140.055 Taxation of surviving co-owner of government bond or similar evidence of indebtedness.

SB 46, AN ACT relating to creation of a Capital Planning Advisory Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 7A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The Capital Planning Advisory Board of the Kentucky General Assembly is established. The members of this board shall represent all three branches of government and are empowered to prepare a comprehensive state capital improvement plan and to make funding recommendations to each branch head as to state spending for capital projects.

SECTION 2. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Capital project" means:

(a) Any undertaking which is to be financed or funded through an appropriation by the General Assembly of general fund, road fund, bond fund, trust and agency fund, or federal fund moneys, where the expenditure is a capital expenditure pursuant to statute or under standards prescribed by the Legislative Research Commission under the authority of KRS Chapter 48; or

(b) Any undertaking which is to be financed by a capital expenditure for use by the state government or one of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020, including projects related to the construction or maintenance of roads, and including projects of institutions of higher education as defined in KRS 164A.550(2); or

(c) Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost two hundred thousand dollars ($200,000) or more, or any item of movable equipment, estimated to cost fifty thousand dollars ($50,000) or more, regardless of the source of funds; or

(d) Any lease or rental of real property or of an item of movable equipment where the estimated cost of purchasing the real property is two hundred thousand dollars ($200,000) or more, or the estimated cost of purchasing the equipment is fifty thousand dollars ($50,000) or more.

(2) "Board" means the Capital Planning Advisory Board of the Kentucky General Assembly created by Section 3 of this Act.

(3) "Plan" means the state capital improvement plan provided for by Section 4 of this Act.

(4) "State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government.

SECTION 3. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

(1) The Capital Planning Advisory Board of the Kentucky General Assembly shall consist of fifteen (15) members. The manner of appointment and terms of the members of the board shall be as follows:

(a) Four (4) members shall be appointed by the Governor to represent the executive branch of state government. These members shall serve for a term of four (4) years and until their successors are appointed.

(b) Four (4) members shall be appointed by the Chief Justice of the Supreme Court to represent the judicial branch of state government. These members shall serve for a term of four (4) years and until their successors are appointed.

(c) Four (4) members shall represent the legislative branch of state government and shall be appointed and serve as follows:

1. The Speaker of the House of Representatives shall appoint two (2) members, each of whom shall serve while a member of the House for the term for which he has been elected; and

2. The President Pro Tem of the Senate shall appoint two (2) members, each of whom shall serve while a member of the Senate for the term for which he has been elected.

(d) Three (3) public members shall be appointed from the Commonwealth at large, one (1) by the Governor, one (1) by the Chief Justice, and one (1) by the Legislative Research Commission. The public members shall serve for a term of four (4) years and until their successors are appointed.

(2) Any vacancy on the board shall be filled in the same manner as the original appointment.

(3) The board shall elect one (1) of its members to serve as chairman for a term of two (2) years.

(4) The board shall meet at the call of the chairman, but at least twice during each calendar year.

(5) Members of the board shall be entitled to reimbursement for expenses incurred in the performance of their duties.

SECTION 4. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

(1) Every two (2) years, the board shall prepare a state capital improvement plan containing its proposals for state spending for capital projects.

(2) Copies of the plan shall be submitted to the Governor, the Chief Justice, and the Legislative Research Commission no later than August 1 of each odd-numbered year. The plan shall provide:

(a) A detailed list of all capital projects of the state which the board recommends be undertaken or continued by any state agency during the six (6) fiscal year period commencing with the upcoming biennial budget, together with information as to the effect of these capital projects on future operating expenses of the Commonwealth, and with recommendations as to the priority of these capital projects and the means of funding them;

(b) The forecast of the board as to the requirements for capital projects of state agencies during the six (6) fiscal year period and for those additional periods, if any, necessary or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction for these additional periods;

(c) A schedule for the next biennial budget of recommended appropriations of bond funds from issues of bonds previously authorized;

(d) A review of capital projects which have recently been implemented or completed or are in process of implementation or completion;

(e) Recommendations as to the maintenance of physical properties and equipment of state agencies; and

(f) Any other information that the board deems relevant to the foregoing matters.

(3) Each state agency shall no later than April 15 of each odd-numbered year provide the board with information described in subsection (2) of this section in the form that shall be prescribed by the board.

(4) In addition to information available to the board under the computerized record keeping of the Finance and Administration Cabinet, each state agency shall, when requested, provide the board with supplemental information concerning any real property owned or leased by the agency, including its current or future availability for other state uses.

SECTION 5. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The board may conduct public hearings in furtherance of its general purposes at places designated by it, at which hearings it may request the appearance of officials of any state agency and solicit the testimony of interested groups and the general public.

SECTION 6. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The board may adopt any administrative regulations necessary to carry out its planning and advisory functions as provided by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The board may employ and fix the compensation of an executive director who shall be its secretary and principal executive officer. The board may also employ any other stenographic, clerical, and expert assistance, and incur any traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties and as may be within the limits of funds appropriated or otherwise made available to it.

SECTION 8. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The board may make use of existing studies, surveys, plans, data, and other materials in the possession of any state agency. Upon request by the board, an agency shall make these materials available to the board so that the board may have current information on the capital plans and programs of the agency.

SECTION 9. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The officers and personnel of any state agency and any other person may serve at the request of the board upon any advisory committees that the board may create. State officers and personnel may serve upon these advisory committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights, and privileges which they otherwise enjoy.

SCR 4, A CONCURRENT RESOLUTION directing a study of the Commonwealth's legal and practical liability for debt issued by local governments and by independent state debt issuing authorities.

WHEREAS, debt issued by cities, counties, and special districts accounts for nearly two-thirds of the total outstanding debt issued by governments in Kentucky; and

WHEREAS, debt issued by non-appropriation supported, independent state debt-issuing authorities accounts for over forty percent of the debt issued by state authorities and represents the fastest growing category of state debt since 1980; and

WHEREAS, there exists considerable uncertainty regarding the legal and practical fiscal liability of the General Assembly in the event of a default on a bond issued by a local government or a non-appropriation supported, independent state debt-issuing authority; and

WHEREAS, the General Assembly may want to establish more stringent oversight and reporting procedures regarding the debt for which it does have significant legal and practical responsibility;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Legislative Research Commission conduct a detailed study of the legal and practical liability of the General Assembly in the event of a default on a bond issued by a unit of Kentucky local government or by a non-appropriation supported, independent state debt-issuing authority. The study shall include but not be limited to the following:

(1) Assessment of the legal and practical liability of the General Assembly in the event of a default on a bond:

(a) Issued by a state independent debt-issuing authority but which debt was not intended to be serviced by an appropriation of the General Assembly. Examples of these authorities include, but are not limited to the Kentucky Development Finance Authority, the Kentucky Housing Authority, the Kentucky Infrastructure Authority, the Kentucky Higher Education Student Loan Corporation, the Kentucky Local Correctional Facilities Construction Authority, and the Kentucky Agricultural Finance Corporation;

(b) Issued by a city, county or special district and which debt service is intended to come from an appropriation of that governing body;

(c) Issued by a city, county or special district and which debt service is not intended to come from an appropriation of that governing body. Industrial revenue bonds are an example of this category of debt;

(d) Issued by any private organization for the purpose of establishing a bond pool for use by units of Kentucky government, including, but not limited to, those established by the Kentucky League of Cities and the Kentucky Association of Counties;

(2) Recommendations concerning reporting and oversight procedures which should be established for any category of debt for which the General Assembly is determined to have significant legal and practical liabilities.

Section 2. That the study be completed no later than July 1, 1991, for referral to the appropriate committee of jurisdiction to consider study recommendations.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000) and shall be provided from the regular Legislative Research Commission budget, subject to the limitations and other research responsibilities of the Commission.

SCR 5, A CONCURRENT RESOLUTION reauthorizing and reestablishing a task force to study debt limits and other issues related to the creation of debt.

WHEREAS, the 1988 Regular Session of the General Assembly authorized and established a task force to determine safe levels of debt and develop a debt capacity model;

WHEREAS, the task force has prepared legislation for adoption by the 1990 Regular Session of the General Assembly the effects of which, if adopted, should be observed by a body familiar with the intent of the legislation; and

WHEREAS, the task force, during the course of its deliberations and study, identified areas related to the question of debt limits which were not addressed due to insufficient time to do so, but should be addressed;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the General Assembly should reestablish a task force to continue the study of state debt limits and study other issues related to the creation of debt. The task force shall consist of: the chairmen of the House and Senate Appropriations and Revenue Committees, who shall serve as co-chairmen; two legislators, one legislative staff member, one economist, appointed by the Legislative Research Commission; the secretary of the Finance and Administration Cabinet, or his designee; the executive director of the Office of Financial Management and Economic Analysis; and the State Budget Director.

Section 2. This task force should report its findings to the Legislative Research Commission no later than September 1, 1991. Staff services to be utilized in completing this study are estimated to cost $10,000 and shall be provided from the regular Legislative Research Commission budget.

The Committee on Agriculture and Small Business reported **HB 132** with Committee Substitute attached thereto, and **HB 385** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 132, AN ACT relating to the quality of motor fuels and providing an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "ASTM standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials in accordance with the most recent version of ASTM D 439, specifications for automotive gasoline, or ASTM D 975, specifications for diesel fuel oils;

(2) "Commissioner" means the Commissioner of the Kentucky Department of Agriculture or a departmental employee designated by the Commissioner to act on his behalf for the purposes of this Act;

(3) "Department" means the Kentucky Department of Agriculture;

(4) "Diesel fuel" means refined oil commonly used in internal combustion engines and defined as diesel fuel under the ASTM standard classification of diesel fuel oils;

(5) "Division" means the Division of Weights and Measures in the Kentucky Department of Agriculture;

(6) "Gasoline" means all liquid fuels, including liquids ordinarily, particularly, and commercially used in internal combustion engines for the generation of power, and all distillates of any condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable, except propane, butane, or other liquid petroleum gases, kerosene, cleaner, solvent, fuel oil, and crude oil;

(7) "Gasoline alcohol blend" means a blend consisting primarily of gasoline which contains by volume at least one percent (1%) ethanol alcohol, methanol alcohol, or both, or any combination of ethyl alcohol or methyl alcohol;

(8) "Inspector" means a state inspector of the Division of Weights and Measures as defined in KRS 363.510;

(9) "Motor fuels" means any liquid product used for the generation of power in an internal combustion or turbine engine and shall include, but necessarily be limited to, gasoline, diesel fuel, gasoline alcohol blend, or special fuels;

(10) "Person" means any individual, partnership, corporation, company, firm, association, or other business entity;

(11) "School bus" means any motor vehicle which meets the standards and specifications authorized by KRS 156.153 and is used in transporting school students and school employees to and from school under the supervision and control of an education authority; and

(12) "Special fuels" means and includes all combustible gases and liquids being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, jet aviation fuel, kerosene not to be used to propel licensed motor vehicles, or liquid petroleum gas as defined in KRS 234.100.

SECTION 2. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall be administered by the Commissioner or his authorized agent. For the purposes of administering and giving effect to the provisions of this Act, the standards set forth in the annual book of ASTM standards, supplements, and revisions shall be applied.

SECTION 3. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

No article or commodity shall be sold or offered for sale in Kentucky as gasoline, diesel fuel, gasoline/alcohol blends, special fuels, or motor fuel unless it conforms to the following:

(1) The fuels shall be labeled and posted in accordance with applicable federal and state laws;

(2) The motor fuels shall conform to the latest ASTM specifications for motor fuels;

(3) The motor fuel compliance with ASTM standards or specifications shall be determined in accordance with the test methods prescribed in the latest ASTM materials. The method of testing distillation and the distillation range used in such testing of the petroleum products shall be as prescribed by the current ASTM standards; and

(4) The tests required shall be made by the refiners, manufacturers, or blenders of motor fuels. If shipment of motor fuels is by rail, water transportation, or pipeline, the bill of lading for each shipment shall state that the product meets the ASTM standards. If shipment is by truck or other vehicle, the invoice for each shipment shall state that the product meets the ASTM standards. The bill of lading or invoice shall show the destination of shipment. If an inspector of the Division of Weights and Measures is in doubt as to the correctness of the statement attached to the bill of lading or invoice, he shall procure a sample of the motor fuel product in question and send the sample for testing in accordance with the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells or offers for sale motor fuel in Kentucky shall register with the division on forms provided by the division and shall disclose the location within the state from which motor fuel is offered for sale. Any person who discontinues the sale or distribution of motor fuel in Kentucky shall notify the division of the date the sale or distribution within the state will end.

(2) All motor fuels to be sold or offered for sale at a location shall be registered by the name, brand, or trademark under which it will be conveyed. Such registration shall include:

(a) The name and address of the person registering the motor fuel;

(b) The antiknock index or cetane number, as appropriate, at which the fuel is to be sold; and

(c) Certification, declaration, or affidavit that each individual grade or type of motor fuel conforms to the provisions of this Act.

(3) Each person registered to sell motor fuels at a location shall retain the bills of lading or invoices at the location to which the motor fuel is shipped. A bill of lading or invoice shall be retained at the location for ninety (90) days from the date of delivery.

SECTION 5. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner shall implement and administer an inspection and testing program to enforce compliance with Section 3 of this Act.

(2) When in the discretion of the director of the division, promotion or protection of the public health, safety, or welfare necessitates, inspection and testing may be performed under the provisions of this Act with regard to any person or business location which sells or offers for sale motor fuel in Kentucky.

(3) Upon receiving a consumer complaint alleging a violation of Section 3 of this Act, which in the discretion of the director of the division indicates that the public health, safety, or welfare has been threatened, the director may perform such inspection and testing as may be necessary to determine whether the consumer complaint has an actual basis in fact.

(4) The test results and motor fuel analysis performed under the provisions of this Act shall constitute open records and shall be available for public inspection at the division offices during regular business hours.

SECTION 6. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Upon request of an inspector, a person who sells or offers for sale motor fuel for consumption in Kentucky shall immediately provide the department, free of cost, samples of motor fuel sold or offered for sale at a location. Samples shall be pumped, pulled, drawn, or otherwise provided in the presence of the field inspector. The department shall test the samples for compliance with the requirements of Section 3 of this Act.

(2) The division, upon receipt of the sample, shall further test the sample or cause the sample to be tested and the result of the test shall be final.

(3) The department shall adopt as a substitute standard any provision of the federal law which imposes requirements in conflict with the ASTM standard.

SECTION 7. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the division director finds gasoline being sold or offered for sale by any person or at any location which does not meet the ASTM specifications adopted in this Act, the director may issue a stop sale order and affix the stop sale order to the gasoline pump containing substandard gasoline.

(2) A stop sale notice may be issued to the seller or distributor of gasoline or fuels failing to meet established specifications. The supplier shall be notified accordingly and a release shall be awarded only after final disposition has been agreed upon by the division. Confirmation of the disposition shall be submitted in writing and contain an explanation for the failure to meet specifications. The stop sale order shall apply only to the location where sample analysis indicates specification violation. Upon discovery of fuels failing to meet established specifications, meter readings and physical inventory may be taken and reported in the confirmation of disposition.

(3) A retest of substandard fuel analyzed under the provisions of this Act may be requested and shall be conducted in accordance with ASTM standards for a retest.

SECTION 8. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

If suspended matter is found in the gasoline, the hose shall be examined and if found defective shall be replaced before the pump may be used again.

SECTION 9. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

The department shall inspect and collect at least one (1) sample per calendar quarter from each location from which motor fuel is conveyed or distributed for use in school buses in Kentucky. Subject to the availability of resources, the department may inspect any location more frequently than once each calendar quarter

and may test a greater number of samples. If transactions occurring at a particular location total an average of less than three hundred (300) gallons per month, then quarterly inspections and testing of the location shall not be required. If in the discretion of the director of the division, promotion or protection of the public health, safety, or welfare necessitates, additional inspection and testing may be performed with regard to any location which previously has been found by the division to be in violation of Section 3 of this Act.

SECTION 10. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Motor fuels conveyed or distributed for consumption in school buses in Kentucky shall meet the standards established in Section 3 of this Act.

(2) The division may adopt alternative volatility standards for gasoline alcohol blends conveyed or distributed for consumption in school buses in Kentucky provided the alternative standards are consistent with the protection and promotion of the public health, safety, and welfare.

(3) The department shall adopt as a substitute standard any provision of the federal or state law which imposes requirements in conflict with the ASTM standard.

SECTION 11. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells, offers for sale, conveys or distributes motor fuel for consumption in Kentucky, or an agent or employee of the person, refusing during regular working hours to promptly provide upon request a sample for inspection and testing as required by this Act, shall be in violation of Section 6 of this Act and shall be subject to the penalty set forth in Section 13 of this Act.

(2) Any person who sells, offers for sale, conveys or distributes motor fuel for consumption in Kentucky, or an agent or employee of that person, and interferes or attempts to interfere with the reasonable efforts of an inspector or department employee to perform any duty or responsibility assigned pursuant to this Act, shall be in violation of Section 6 of this Act and shall be subject to the penalties in Section 13 of this Act.

(3) A person who sells, offers for sale, conveys or distributes motor fuel in Kentucky and fails to register with the department as required by Section 4 of this Act shall be subject to the penalties in Section 13 of this Act.

SECTION 12. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Each official and employee within the department who is directly or indirectly involved in the administration of this Act and who has a direct or indirect interest in any firm, business, or corporation which sells or offers for sale motor fuels for consumption in Kentucky, shall annually file a written statement summarizing his involvement in the administration or enforcement of this Act as well as his interest in the business, firm, or corporation. The statement shall constitute an open record, shall be kept on file in the department offices, and shall be available for public inspection during business hours.

(2) No official or employee within the division and no official or employee within the department carrying out any functions which have been assigned under the authority of this Act shall take away or appropriate for his own use any sample collected by or submitted to the department for testing. The department shall establish policies and procedures governing the use, disposal, or sale of any sample remaining unused after testing is completed.

SECTION 13. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this Act or any administrative regulation promulgated pursuant to this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or confinement for not more than ninety (90) days, or both.

Section 14. There is appropriated from the state's general fund $1,000,000 in fiscal year 1990-91 and $1,200,000 in fiscal year 1991-92 to the Department of Agriculture to carry out the provisions of this Act.

The Committee Substitute to **HB 132** is as follows:

HB 132, AN ACT relating to the quality of motor fuels and providing an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "ASTM standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials in accordance with the most recent version of ASTM specifications for automotive gasoline, or ASTM specifications for diesel fuel oils;

(2) "Commissioner" means the Commissioner of the Kentucky Department of Agriculture or a departmental employee designated by the Commissioner to act on his behalf for the purposes of this Act;

(3) "Department" means the Kentucky Department of Agriculture;

(4) "Diesel fuel" means refined oil commonly used in internal combustion engines and defined as diesel fuel under the ASTM standard classification of diesel fuel oils;

(5) "Division" means the Division of Weights and Measures in the Kentucky Department of Agriculture;

(6) "Gasoline" means all liquid fuels, including liquids ordinarily, particularly, and commercially used in internal combustion engines for the generation of power, and all distillates of any condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable, except propane, butane, or other liquid petroleum gases, kerosene, cleaner, solvent, fuel oil, and crude oil;

(7) "Gasoline alcohol blend" means a blend consisting primarily of gasoline and at least one percent (1%) of one (1) or more alcohols;

(8) "Gasoline-oxygenate blend" means a blend consisting primarily of gasoline and at least one percent (1%) of one (1) or more oxygenates;

(9) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement;

(10) "Inspector" means a state inspector of the Division of Weights and Measures as defined in KRS 363.510;

(11) "Motor fuels" means any liquid product used for the generation of power in an internal combustion or turbine engine and shall include, but not necessarily limited to, gasoline, diesel fuel, gasoline alcohol blend, or special fuels;

(12) "Person" means any individual, partnership, corporation, company, firm, association, or other business entity;

(13) "School bus" means any motor vehicle which meets the standards and specifications authorized by KRS 156.153 and is used in transporting school students and school employees to and from school under the supervision and control of an education authority; and

(14) "Special fuels" means and includes all combustible gases and liquids being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, jet aviation fuel, kerosene not to be used to propel licensed motor vehicles, or liquid petroleum gas as defined in KRS 234.100.

SECTION 2. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall be administered by the Commissioner or his authorized agent. For the purposes of administering and giving effect to the provisions of this Act, the standards set forth in the annual book of ASTM standards, supplements, and revisions shall be applied.

SECTION 3. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

No article or commodity shall be sold or offered for sale and use in Kentucky as motor fuel unless it conforms to the following:

(1) The fuels shall be labeled and posted in accordance with applicable federal and state laws;

(2) The motor fuels shall conform to the latest ASTM specifications for that particular type, class and grade of motor fuels; except for gasoline-alcohol blends, in which case the vapor pressure limit for each class shall be increased by one (1) pound per square inch, the minimum temperature for fifty percent (50%) distillation shall be one hundred fifty eight (158) degrees Fahrenheit, and V/L (vapor to liquid ratio) is waived;

(3) The motor fuel compliance with ASTM standards or specifications shall be determined in accordance with the test methods prescribed in the latest ASTM publications;

(4) The tests required to assure compliance with Section 3 of this Act shall be made by refiners,

manufacturers or blenders of the motor fuels. All shipments of such motor fuel shall state on either the bill of lading or invoice the destination of the shipment and that the shipment meets the standards and specifications required in Section 3 of this Act. The Division of Weights and Measures may obtain a sample of any shipment for testing in accordance with this Act; and

(5) Unfinished oils and motor fuel blending components shall be exempt from Section 3 until they are offered for sale as motor fuel by the refiner or manufacturer.

SECTION 4. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells or offers for sale motor fuel in Kentucky shall register one (1) time with the division on forms provided by the division and shall disclose the location within the state from which motor fuel is offered for sale. Any person who starts or discontinues the sale or distribution of motor fuel in Kentucky shall notify the division of the date the sale or distribution within the state will begin or end and the location affected.

(2) All motor fuels to be sold or offered for sale at a location shall be registered by the name, brand, or trademark under which it will be conveyed. Such registration shall include:

(a) The name and address of the person registering the motor fuel;

(b) The antiknock index or octane number, as appropriate, at which the fuel is to be sold; and

(c) Certification, declaration, or affidavit that each individual grade or type of motor fuel conforms to the provisions of this Act.

(3) Each person registered to sell motor fuels at a location shall retain the bills of lading or invoices at the location to which the motor fuel is shipped. A bill of lading or invoice shall be retained at a location for ninety (90) days from the date of delivery.

SECTION 5. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner shall implement and administer an inspection and testing program to enforce compliance with Section 3 of this Act.

(2) When in the discretion of the director of the division, promotion or protection of the public health, safety, or welfare necessitates, inspection and testing may be performed under the provisions of this Act with regard to any person or business location which sells or offers for sale motor fuel in Kentucky.

(3) Upon receiving a consumer complaint alleging a violation of Section 3 of this Act, which in the discretion of the director of the division indicates that the public health, safety, or welfare has been threatened, the director may perform such inspection and testing as may be necessary to determine whether the consumer complaint has an actual basis in fact.

(4) The test results and motor fuel analysis performed under the provisions of this Act shall constitute open records and shall be available for public inspection at the division offices during regular business hours.

SECTION 6. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Upon request of an inspector, a person who sells or offers for sale motor fuel for consumption in Kentucky shall immediately provide the department, in containers provided free of cost by the department, an amount of motor fuel not to exceed one (1) gallon. Samples shall be pumped, pulled, drawn, or otherwise provided in the presence of the field inspector. The department shall test the samples for compliance with the requirements of Section 3 of this Act.

(2) In administering this Act the department shall conform to any provision of the federal law or regulation which imposes requirements in conflict with the ASTM standard.

SECTION 7. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the division director finds motor fuels being sold or offered for sale by any person or at any location which does not meet the requirements of this Act, the director may issue a stop sale order and affix the stop sale order to the motor fuel dispenser containing substandard motor fuel.

(2) A stop sale notice may be issued to the seller or distributor of motor fuels failing to meet the requirements of this Act. The supplier shall be notified accordingly and a release shall be awarded by the division immediately after the supplier or seller demonstrates compliance with this Act. A report of the disposition shall be submitted to the division in writing within five (5) business days and contain an explanation for the failure to meet the requirements of this Act and corrective action taken. The stop sale order shall

apply only to the location and particular type of motor fuel where sample analysis indicates a violation. Upon issuing a stop sale order, the director of the division may require meter readings and physical inventory be taken and included in the report of disposition.

(3) A retest or a new sample of substandard fuel analyzed under the provisions of this Act may be requested and shall be conducted by the department as soon as possible in accordance with ASTM standards for a retest.

SECTION 8. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

If suspended matter is found in the motor fuel, the filtration device shall be examined and if found defective shall be replaced before the dispenser may be used again.

SECTION 9. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

The department shall inspect and collect at least one (1) sample per calendar quarter from each location from which motor fuel is conveyed or distributed for use in school buses in Kentucky. Subject to the availability of resources, the department may inspect any location more frequently than once each calendar quarter and may test a greater number of samples. If transactions occurring at a particular location total an average of less than three hundred (300) gallons per month, then quarterly inspections and testing of the location shall not be required. If in the discretion of the director of the division, promotion or protection of the public health, safety, or welfare necessitates, additional inspection and testing may be performed with regard to any location which previously has been found by the division to be in violation of Section 3 of this Act notwithstanding the provisions of subsection (1) of Section 6 of this Act.

SECTION 10. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Motor fuels conveyed or distributed for consumption in school buses in Kentucky shall meet the standards established in Section 3 of this Act.

(2) The division may adopt alternative volatility standards for gasoline alcohol blends conveyed or distributed for consumption in school buses in Kentucky provided the alternative standards are consistent with the protection and promotion of the public health, safety, and welfare.

(3) The department shall adopt as a substitute standard any provision of the federal or state law which imposes requirements in conflict with the ASTM standard.

SECTION 11. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells, offers for sale, conveys or distributes motor fuel for consumption in Kentucky, or an agent or employee of the person, refusing during regular working hours to promptly provide upon request a sample for inspection and testing as required by this Act, shall be in violation of Section 6 of this Act and shall be subject to the penalty set forth in Section 13 of this Act.

(2) Any person who sells, offers for sale, conveys or distributes motor fuel for consumption in Kentucky, or an agent or employee of that person, and interferes or attempts to interfere with the reasonable efforts of an inspector or department employee to perform any duty or responsibility assigned pursuant to this Act, shall be in violation of Section 6 of this Act and shall be subject to the penalties in Section 13 of this Act.

(3) A person who sells, offers for sale, conveys or distributes motor fuel in Kentucky and fails to register with the department as required by Section 4 of this Act shall be subject to the penalties in Section 13 of this Act.

SECTION 12. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

(1) Each official and employee within the department who is directly or indirectly involved in the administration of this Act and who has a direct or indirect interest in any firm, business, or corporation which sells or offers for sale motor fuels for consumption in Kentucky, shall annually file a written statement summarizing his involvement in the administration or enforcement of this Act as well as his interest in the business, firm, or corporation. The statement shall constitute an open record, shall be kept on file in the department offices, and shall be available for public inspection during business hours.

(2) No official or employee within the division and no official or employee within the department carrying out any functions which have been assigned under the authority of this Act shall take away or appropriate for his own use any sample collected by or submitted to the department for testing. The department shall establish policies and procedures governing the use, disposal, or sale of any sample remaining unused after testing is completed.

SECTION 13. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this Act or any administrative regulation promulgated pursuant to this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or confinement for not more than ninety (90) days, or both.

Section 14. There is appropriated from the state's general fund $600,000 in fiscal year 1990-91 and $600,000 in fiscal year 1991-92 to the Department of Agriculture to carry out the provisions of this Act.

HB 385, AN ACT relating to personal service contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.700 is amended to read as follows:

(1) As used in KRS 45.705 to 45.720:

(a) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the legislature, authorized by law to contract for personal services;

(b) "Governmental emergency" means an unforeseen event or set of circumstances which creates an immediate need for services, which is necessary for maintenance of governmental operations or to prevent or minimize injury or damage;

(c) "Subcommittee" means Personal Service Contract Review Subcommittee; and

(d) "Personal service contract" means an agreement whereby an individual, firm, partnership or corporation is to perform certain duties, professional or otherwise, for a specified period of time for a price agreed upon, which are exempted from competitive bidding pursuant to KRS 45.360. This definition ***shall*** [~~does~~] not apply to agreements between the Department of Parks and a performing artist [~~or artists~~] involving amounts less than five thousand dollars ($5,000) per fiscal year, per ***individual*** [~~artist or artists~~], agreements with public utilities, foster care parents, medicaid providers, individuals performing homemaker services, transit authorities, ***agreements between State Fair Board and judges, officials, and entertainers contracted for events promoted by the State Fair Board,*** agreements between a state agency and a state college or university, agreements between a state agency and an area development district, agreements between a state agency and a community action agency, agreements between a state agency and a mental health/mental retardation board, agreements between a state agency and another state agency, agreements between a state agency and a political subdivision, agreements between state universities and employers of students in the Commonwealth work study program sponsored by the Kentucky higher education assistance authority, and agreements between a state agency and rural concentrated employment programs.

(2) Compliance with the provisions of KRS 45.705 to 45.720 does not dispense with the requirements of any other law necessary to make the personal service contract valid.

The Committee on Agriculture and Small Business reported **HB 393** and **HB 400** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 393, AN ACT relating to coyotes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 258.500 TO 258.990 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this Act is to allow the Department of Agriculture, the Department of Fish and Wildlife Resources, and the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), to enter into a cooperative agreement to control coyote predation of livestock or poultry in any geographical area where coyotes are found to have killed or damaged livestock or poultry.

(2) Upon determining that coyotes are endangering livestock, poultry, crops, timberland, or public health, a county fiscal court may file with the Department of Agriculture a resolution requesting control measures. Upon receipt of the resolution from a county fiscal court, the department may enter into a cooperative agreement for damage control activities with the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), providing that there are sufficient state funds to pay for a control program within the county.

(3) The department shall provide the commissioner of the Department of Fish and Wildlife Resources

with all county fiscal court resolutions and cooperative agreements pursuant to this Act. Coyote control activities pursuant to this Act shall not impede the powers and responsibilities of the Department of Fish and Wildlife Resources.

(4) There is hereby created an Animal Damage Control Advisory Board, which shall serve without compensation, and shall be composed of the following members:

(a) The Commissioner of Agriculture or his designee;

(b) The Commissioner of the Department of Fish and Wildlife Resources or his designee;

(c) A designated representative from the U.S.D.A., Animal and Plant Health Inspection Service;

(d) The president of the Kentucky Animal Control Association or his designee;

(e) The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;

(f) The dean of the University of Kentucky College of Agriculture or his designee; and

(g) One representative of the Kentucky Farm Bureau Federation.

(5) The board shall have the following duties and responsibilities:

(a) To adopt administrative regulations governing times and places for meetings and governing the manner of conducting its business; and

(b) To oversee an animal damage control program to be administered by the Department of Agriculture through a cooperative agreement with the United States Department of Agriculture, Animal and Plant Health Inspection Service.

(6) All control efforts shall be in accordance with the organized and systematic plans of the United States Department of Agriculture and state agencies covering the management and control of wildlife.

(7) A county requesting control measures under the provisions of this Act may enter into agreements and provide funds for a control program within the county. Supervision of the program shall be by the local representative of the United States Department of Agriculture, Animal and Plant Health Inspection Service.

(8) Animal damage control activities pursuant to this Act shall not be conducted on federal lands.

(9) There is hereby created the Animal Damage Control Agency Fund which shall be administered by the Department of Agriculture. The Animal Damage Control Agency Fund shall be comprised of fifty percent (50%) of the livestock fund pursuant to KRS 258.125 at the beginning of each fiscal year. No more than fifty percent (50%) of the livestock fund shall be expended pursuant to this Act in a fiscal year.

(10) The Department of Agriculture may cooperate with and receive funds from other agencies or departments of the state for the purposes of this Act, and may accept from any source such funds, contributions, payments, gifts, or bequests as may be given or paid under contractual agreement to the department. Such funds shall be deposited in the Animal Damage Control Agency Fund.

(11) The United States Department of Agriculture, Animal and Plant Health Inspection Service, should submit to the Animal Damage Control Advisory Board annual reports on activities and expenditures pursuant to this Act.

HB 400, AN ACT relating to commercial feed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.491 is amended to read as follows:

KRS 250.491 to 250.631 shall be administered by the director of the Kentucky Agricultural Experiment Station of the State of Kentucky, hereinafter referred to as the "director," *or his designee.*

Section 2. KRS 250.501 is amended to read as follows:

As used in KRS 250.491 to 250.631:

(1) "Person" includes individual, partnership, corporation, and association;

(2) "Distribute" means to offer for sale, sell, exchange or barter commercial feed;

(3) "Distributor" means any person who distributes;

(4) "Commercial feed" means all materials except unmixed seed, whole and unprocessed, when not adulterated within the meaning of subsections (1), (2) and (3) of KRS 250.541 which are offered for sale as feed or for mixing in feed.[~~: Provided, that~~] The director by regulation may exempt from this definition, or from specific provision of KRS 250.491 to 250.631, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when ***the*** [~~such~~] commodities, compounds or substances are not intermixed or mixed with other materials, and are not adulterated within the meaning of subsections (1), (2), (3) and (4) of KRS 250.541;

(5) "Feed ingredient" means each of the constituent materials making up a commercial feed;

(6) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

(7) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body;

(8) "Customer-formula feed" means commercial feed which consists of***:***

(a) A mixture of ***two (2) or more*** commercial feeds***;***

(b) A mixture of one (1) or more commercial feeds and one (1) or more feed ingredients; or

(c) A mixture of two (2) or more feed ingredients; [~~and/or feed ingredients~~] each batch of which ***feed*** is manufactured according to the specific instructions of the final purchaser;

(9) "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution;

(10) "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others;

(11) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use;

(12) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed;

(13) "Labeling" means ***written, printed, or graphic matter used in promoting the sale of*** [~~all labels and other written, printed, or graphic matter (a) upon a commercial feed or any of its containers or wrapper or (b) accompanying such commercial~~] feed;

(14) "Ton" means a net weight of two thousand pounds avoirdupois;

(15) "Percent" or "percentages" means percentages by weights;

(16) "Official sample" means a sample of feed taken by the director or his agent in accordance with the provisions of ***subsections*** [~~subsection~~] (3), (5) or (6) of KRS 250.581;

(17) "Pet food" means any commercial feed prepared and distributed for consumption by pets;

(18) "Offered for sale" means to hold for sale, sell, exchange, or barter commercial feed.

Section 3. KRS 250.511 is amended to read as follows:

(1) No person shall manufacture a commercial feed in this state, unless he has filed with the director on forms provided by the director, his name, place of business and location of each manufacturing facility in this state.

(2) No person shall distribute in this state a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the director. Upon approval by the director, the registration shall be issued to the applicant. A registration shall continue in effect unless it is canceled by the registrant or unless it is canceled by the director pursuant to subsection (3) of this section.

(3) The director ***may*** [~~is empowered to~~] refuse registration of any commercial feed not in compliance with the provisions of KRS 250.491 to 250.631 and ***may*** [~~to~~] cancel any registration subsequently found not

to be in compliance with any provision of KRS 250.491 to 250.631.[~~: Provided, That~~] No registration shall be refused or canceled unless the registrant shall have been given an opportunity to be heard before the director and to amend his application in order to comply with the requirements of KRS 250.491 to 250.631.

Section 4. KRS 250.541 is amended to read as follows:

A commercial feed shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which:

(a) May render it injurious to health; but in case the substance is not an added substance, ***the*** [~~such~~] commercial feed shall not be considered adulterated under this subsection if the quantity of ***the*** [~~such~~] substance in ***the*** [~~such~~] commercial feed does not ordinarily render it injurious to health; or

(b) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is 1. a pesticide chemical in or on a raw agricultural commodity; or 2. a food additive); or

(c) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or

(d) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of subsection (a) of Section 408 of the Federal Food, Drug, and Cosmetic Act. ***If***[~~: Provided, That where~~] a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and ***the*** [~~such~~] raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of ***the*** [~~such~~] pesticide chemical remaining in or on ***the*** [~~such~~] processed feed shall not be deemed unsafe if ***the*** [~~such~~] residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of ***the*** [~~such~~] residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of ***the*** [~~such~~] processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of subsection (a) of Section 408 of the Federal Food, Drug, and Cosmetic Act***; or***

(e) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act; or

(f) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act.

(2). If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor.

(3) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(4) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the director to assure that the drug meets the requirement of KRS 250.491 to 250.631 as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating ***the*** [~~such~~] regulations, the director shall adopt the current good manufacturing practice regulations for ***type A medicated articles and type B and type C medicated feeds*** [~~medicated feed premixes and for medicated feeds~~] established under authority of the Federal Food, Drug, and Cosmetic Act, unless he determines that they are not appropriate to the conditions which exist in this state.

(5) If it contains viable weed seeds in amounts exceeding the limits which the director shall establish by rule or regulation.

(6) If its labeling would deceive or mislead the purchaser with respect to its composition or usefulness for its intended purpose.

Section 5. KRS 250.561 is amended to read as follows:

(1) An inspection fee at the rate of ***thirty-five cents (35)*** [~~twenty cents (20)~~] per ton shall be paid on commercial feeds distributed in this state by the person ***whose name appears on the label as the manufacturer, guarantor or distributor, except that a person other than the manufacturer, guarantor or distributor may assume liability for the inspection fee*** [~~who distributes the commercial feed to the consumer~~], subject to the following:

(a) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(b) No fee shall be paid on customer formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients ***and any exempt commodities, such as whole grain, furnished by the final purchaser. An exempt commodity offered for sale by the custom formula feed distributor for the intended use as an ingredient in the manufacture of custom formula feed is subject to the inspection fee. If the fee has already been paid on the commercial feeds, credit shall be given for such payment*** [~~therein~~].

(c) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.

(d) In the case of a commercial feed which is distributed in the state ***to the final purchaser*** only in ***a package weight*** [~~packages~~] of ten pounds or less, an annual fee of ***fifty dollars ($50)*** [~~twenty-five dollars ($25)~~] shall be paid in lieu of the inspection fee specified above.

(e) The minimum inspection fee ***for a feed registrant or a custom formula feed distributor*** shall be ***twenty-five dollars ($25)*** [~~five dollars ($5)~~] per quarter.

(2) Each person who is liable for the payment of ***the*** [~~such~~] fee shall:

(a) File, not later than the last day of January, April, July, and October of each year, a quarterly statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding calendar quarter; and upon filing ***the*** [~~such~~] statement shall pay the inspection fee at the rate stated in subsection (1) of this section. Inspection fees which are due and owing and have not been remitted to the department within fifteen (15) days following the due date shall have ***added*** a ***minimum*** penalty fee of ***twenty-five dollars ($25) or ten percent (10%) of*** [~~six percent added to~~] the amount due***, whichever is greater,*** when payment is [~~finally~~] made. The assessment of this penalty fee shall not prevent the department from taking other actions as provided in this chapter.

(b) Keep ***the*** [~~such~~] records [~~as may be~~] necessary or required by the director to indicate accurately the tonnage of commercial feed distributed in this state, and the director shall have the right to examine ***the*** [~~such~~] records to verify statements of tonnage.

(3) Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

(4) Fees collected shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of KRS 250.491 to 250.631.

Section 6. KRS 250.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 250.020 to 250.170 shall be fined not less than twenty-five dollars ($25), nor more than one hundred dollars ($100).

(2) Any person who violates any of the provisions of KRS 250.180 to 250.230 or the provisions of KRS 250.371 to 250.451 shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

(3) Any person convicted of violating any of the provisions of KRS 250.491 to 250.631 or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said director or his duly authorized agent in performance of his duty in connection with the provisions of KRS 250.491 to 250.631, shall be adjudged guilty of a misdemeanor and ***upon conviction*** shall be fined not ***more than five hundred dollars ($500) for each violation*** [~~less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for the first violation, and not less than fifty dollars ($50) nor more than five hundred dollars ($500) for a subsequent violation~~].

(4) Any person who violates subsection (5) of KRS 250.601 shall be guilty of a misdemeanor and shall on conviction thereof be fined not less than two hundred and fifty dollars ($250) [~~or imprisoned for not more than one (1) year, or both~~].

The Committee on Health and Welfare reported **HB 108** and **HB 158** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 108, AN ACT relating to the senior and physically disabled adult discount program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.410 is amended to read as follows:

As used in KRS 209.400 and 209.420, unless the context otherwise requires:

(1) "Physically disabled adult" means a person, eighteen (18) years of age or older, with a physical condition, whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.

(2) "Senior citizen" means a person ***sixty (60)*** [~~sixty-five (65)~~] years of age or older;

(3) "Statewide senior and physically disabled adult discount program" means a program to provide senior and physically disabled adults discounts on retail goods and services from merchants throughout the state.

Section 2. KRS 209.420 is amended to read as follows:

(1) There is established within the cabinet for human resources a statewide senior and physically disabled adult discount program for the purpose of making retail goods and services available at reduced rates to the Commonwealth's senior citizens.

(2) Program participation shall be voluntary and free. No fees, dues or other charges shall be assessed by the cabinet nor required of the merchants or senior or physically disabled adult citizens who choose to participate. The cabinet shall invite retail merchants to participate in the program by extending discounts on their merchandise or services to physically disabled adults and citizens ***sixty (60)*** [~~sixty-five (65)~~] years of age and older. The conditions and rate of the discounts shall be determined by the participating businesses. Persons ***sixty (60)*** [~~sixty-five (65)~~] years of age and physically disabled adults shall be eligible to participate in the program by presenting valid proof of age or a statement from a licensed physician that the person is physically disabled to participating businesses.

(3) The secretary of the cabinet shall make such regulations as necessary to provide program identification for participating merchants and senior citizens lacking proof of age, informational brochures, directories of participating businesses and other printed materials essential to the implementation and promotion of the program.

HB 158, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources or its designee. Designee shall be defined as any agency established under KRS Chapter 211 or KRS 147A.050 whose duties related to this chapter shall be set forth in administrative regulation.

(2) "Secretary" means the secretary of the Cabinet for Human Resources.

(3) "Boarder" means a person who does not require supervision or assistance related to medication, activities of daily living, or a supervised plan of care.

(4) "Boarding home" means any home, facility, institution, lodging or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the cabinet or any hotel as defined in KRS 219.011(4).

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. The secretary shall not impose a fee for this registration.

(2) The secretary shall not impose or adopt any standards or requirements pertaining to boarding homes, as defined in Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The secretary shall maintain a listing of all registered boarding homes which shall be updated at least quarterly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this Act shall prevent any local municipality or jurisdiction from enacting an ordinance related to boarding homes.

(2) Nothing in the Act shall be construed as requiring registration by persons providing room or board or both to students.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to any boarding home operated or regulated by the federal government.

Section 6. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility; or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any existing boarding home which does not register within six (6) months of the effective date of this Act shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered. New boarding homes which begin operations after the effective date of this Act shall register within thirty (30) days of beginning operations; those failing to register shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered, beginning with the thirty-first day of their operations.

The Committee Amendment No. 1 to **HB 158** is as follows:

Amend printed copy of **HB 158** on page 2, by deleting lines 19 through 21 in their entirety;

And on page 2, line 22, by deleting "*(2)*".

The Committee on Health and Welfare reported **HB 482** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 482, AN ACT relating to blood donations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Any person seventeen (17) years of age or older may donate blood in a voluntary blood program, which is not operated for profit, without consent of the person's parent or guardian. Before soliciting blood donations from students in high schools, joint vocational schools, or technical schools, a blood program, in cooperation with school authorities, shall make reasonable efforts to notify the parents or guardians of the students that the students will be requested to donate blood.

The Committee on State Government reported **HB 460** and **HB 462** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 460, AN ACT relating to state symbols.

WHEREAS, soil is one of Kentucky's most important but least appreciated natural resources, from which marketable products such as livestock, tobacco, grain, pasture, hay, and timber are either directly or indirectly derived; and

WHEREAS, a state soil serves as the focal point of a vital resource the recognition of which is significant for such issues as the conservation of soil and water, agricultural production, water quality, and land management; and

WHEREAS, the Crider soil series is found extensively in Kentucky, a state with diverse geology, covering an area of more than 424,464 acres in 26 counties; and

WHEREAS, many areas of Crider soils are prime farmland, best suited for producing food, feed, forage, fiber, and oil seed crops; and

WHEREAS, Crider soils have the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops economically when treated and managed according to modern farming methods; and

WHEREAS, the Crider soil series was officially established by the National Cooperative Soil Survey in Caldwell County, Kentucky, the representative site to which other Crider soils are compared being located in Pleasant Valley, one mile northwest of Crider, in Caldwell County;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Crider soil series is named and designated as the state soil.

HB 462, AN ACT relating to state symbols.

WHEREAS, each Miss Kentucky is selected not only for her grace and beauty but also for her personality, her poise and her charm; and

WHEREAS, each Miss Kentucky is deemed worthy of representing the Commonwealth in the Miss America pageant and on numerous other special occasions as well; and

WHEREAS, the dignity of state occasions would be enhanced by the presence of the young woman chosen to bear the title "Miss Kentucky";

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The reigning Miss Kentucky, as established under the auspices of the Miss America Pageant, Incorporated, Atlantic City, New Jersey, is named and designated the official state hostess.

Orders of the Day

HB 298 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 298** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 13, 1990 roll call on **HB 298** - Appendix.)

HB 298 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 298** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 65, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Floor Amendment No. 5 to **HB 65**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 3 to **HB 65**. Defeated.

Representative B. Smith moved the adoption of Floor Amendment No. 2 to **HB 65**. Agreed.

Representative Brown moved that **HB 65**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 4. (See February 13, 1990 roll call on **HB 65** - Appendix.)

HB 65, as amended, was passed.

Representative Brown moved the adoption of Floor Title Amendment No. 2 to **HB 65**. Agreed; and the title was agreed to.

Representative Brown moved that the vote by which **HB 65**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 271 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved that **HB 271** be passed.

On the roll call the vote was: Yeas 13, Nays 75. (See February 13, 1990 roll call on **HB 271** - Appendix.)

HB 271 was defeated.

Representative Stumbo moved that the vote by which **HB 271** was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 33 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HB 33** be passed.

On the roll call the vote was: Yeas 76, Nays 15. (See February 13, 1990 roll call on **HB 33** - Appendix.)

HB 33 was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 33** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 229 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 229** be passed.

On the roll call the vote was: Yeas 91, Nays 6. (See February 13, 1990 roll call on **HB 229** - Appendix.)

HB 229 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 229** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 354 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 354** be passed.

On the roll call the vote was: Yeas 64, Nays 18. (See February 13, 1990 roll call on **HB 354** - Appendix.)

HB 354 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 354** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Substitute to **HB 194**. Agreed.

Representative Brown moved that **HB 194**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See February 13, 1990 roll call on **HB 194** - Appendix.)

HB 194, by way of Committee Substitute, was passed.

Representative Brown moved the adoption of the Committee Title Amendment to **HB 194**, by way of Committee Substitute. Agreed; and the title agreed to.

Representative Brown moved that the vote by which **HB 194**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 389** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 13, 1990 roll call on **HB 389** - Appendix.)

HB 389 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 389** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 24, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of Committee Amendment No. 1 to **HCR 24**. Agreed.

Representative Mack moved that **HCR 24**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See February 13, 1990 roll call on **HCR 24** - Appendix.)

HCR 24, as amended, was passed and the title agreed to.

Representative Mack moved that the vote by which **HCR 24**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 238 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 238** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 13, 1990 roll call on **HB 238** - Appendix.)

HB 238 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 238** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 117**:

HR 117, A RESOLUTION honoring Bill Shoemaker.

WHEREAS, Bill Shoemaker is a legend in his own time; and

WHEREAS, with 8,833 wins in 40,350 starts, he is the winningest jockey the world has ever known; and

WHEREAS, the "Shoe" was inducted into Racing's Hall of Fame in 1958, more than 30 years before his final ride; and

WHEREAS, he rode winners of 1,110 stakes, four of those in the Kentucky Derby; and

WHEREAS, those four Derby winners were Swaps, Tomy Lee, Lucky Debonair, and Ferdinand; and

WHEREAS, the "Shoe" rode the "Bid" to victories in 12 of his last 13 starts, setting four track records and one world record;

NOW THEREFORE,

Be it resolved by the House of Representatives of the Commonwealth of Kentucky:

Section 1. That this august body honors Bill Shoemaker on the occasion of his retirement on February 3, 1990 as the greatest jockey of all time and holds him to be a shining example of the best in racing.

Section 2. That the Clerk of the House dispatch a copy of this resolution to Bill Shoemaker, in care of Santa Anita Park, California.

HR 117 was adopted by voice vote.

Representative Rapier moved the adoption of the following **HR 102**:

HR 102, A RESOLUTION honoring Mary Nanze.

WHEREAS, Mary Nanze is a joy to her nieces, great nieces, nephews, and great nephews; and

WHEREAS, Mary Nanze is more healthy and spry at 105 than some persons who are only half her age; and

WHEREAS, this very competent Kentuckian born and raised in Springfield is an inspiration to all Kentuckians; and

WHEREAS, Mary Nanze is a devoted, faithful member of the Catholic Church;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors Mary Nanze and commends her for the joy she brings to her family and friends in the Commonwealth.

Section 2. That the Clerk of the House transmit a copy of this resolution to Mary Nanze, 204 Perryville Road, Springfield, Kentucky 40069.

HR 102 was adopted by voice vote.

Representative Donnermeyer moved that **HB 84** be taken from the Clerk's desk and placed in the Orders of the Day, February 14, 1990. Agreed.

Representative P. Clark moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative P. Clark moved the adoption of the following Legislative Citation No. 36. Agreed.

The House of Representatives of the Commonwealth of Kentcky hereby honors Beverly McAuliffe for her innovative achievements and her spectacular academic successes at Holy Rosary Academy. Whereas, Beverly McAuliffe has creatively built the Holy Rosary Academy Curriculum to serve future generations in their preparation for life and whereas, she has brought enthusiasm and vision to the faculty, parents and students of Holy Rosary Academy; her accomplishment will live on even though her presence may be gone.

Representative B. Richardson moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 121, by Representative B. Richardson: A RESOLUTION adjourning the House of Representatives of the 1990 Kentucky General Assembly in honor of Captain Todd Oliver Travis, USMC.

Representative B. Richardson moved the adoption of the following **HR 121**:

HR 121, A RESOLUTION adjourning the House of Representatives of the 1990 Kentucky General Assembly in honor of Captain Todd Oliver Travis, USMC.

WHEREAS, the security of our nation is protected by our armed forces; and

WHEREAS, even in peacetime, it is imperative that our military patrol the land and sea to assure this security; and

WHEREAS, in September 1988, Captain Todd Oliver Travis deployed with Marine Air Ground Task Force 4-88 and embarked in the USS Raleigh; and

WHEREAS, Captain Travis joined Marine Medium Helicopter Squadron 365 in April 1989, as part of the Aviation Combat Element, 24th Marine Expeditionary Unit and embarked in the USS Iwo Jima; and

WHEREAS, Captain Travis lost his life on November 22, 1989 during a patrol, while flying off the USS Iwo Jima in the western Mediterranean; and

WHEREAS, Captain Travis is a native son of Glasgow, Barren County, Kentucky and a graduate of Western Kentucky University;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its sense of bereavement and loss upon the death of Captain Todd Oliver Travis, USMC and does extend to his family its most heartfelt sympathy.

Section 2. That this body does hereby posthumously proclaim Captain Todd Oliver Travis, USMC, to have been an outstanding Kentuckian.

Section 3. That when the House of Representatives adjourns this day it does so in honor and memory of Captain Todd Oliver Travis, USMC.

Section 4. That the Clerk of the House of Representatives is directed to transmit copies of this resolution to the family of Captain Todd Oliver Travis, USMC, 110 Wingate Avenue, Glasgow, Kentucky 42141.

HR 121 was adopted by voice vote.

Representative Morris moved that **HB 302** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 574, by Representative Lewis: AN ACT relating to sick leave for teachers.

HB 575, by Representatives Cline, Blevins, Cyrus, Bronger, Arnold, McElroy, Hancock, Scorsone, Worthington, Brown, Moberly, B. Smith and Adkins: AN ACT relating to the Teachers' Retirement System and declaring an emergency.

HB 576, by Representatives Morris and Bruce: AN ACT relating to surplus public property.

HB 577, by Representative Northup: AN ACT relating to corporations.

HB 578, by Representative Clarke: AN ACT relating to property valuation administration.

HB 579, by Representative Clarke: AN ACT relating to property taxation.

HB 580, by Representative Clarke: AN ACT relating to property taxation.

HB 581, by Representatives Allen and Siler: AN ACT relating to the official Tug-of-War Championship of the Commonwealth.

HB 582, by Representative Deskins: AN ACT relating to interscholastic athletics.

HB 583, by Representatives Strong, Geveden, Gedling, Altman, Curtsinger, Ford, Turner, Todd, P.

Richardson, J. Harper, Walker, Lefevers, Bentley, Mullinix and Ward: AN ACT relating to dissemination of information regarding taxpayer and business responsibilities.

HB 584, by Representative McElroy: AN ACT relating to a referendum of corn producers.

HB 585, by Representative Barrows: AN ACT relating to counties.

HB 586, by Representative B. Richardson: AN ACT relating to health maintenance organizations.

HB 587, by Representative Ward: AN ACT relating to wages.

HB 588, by Representatives Allen and B. Richardson: AN ACT relating to escheats.

HB 589, by Representatives Allen and Gedling: AN ACT relating to fees at state parks.

HB 590, by Representative T. Jones: AN ACT relating to purebred cattle.

HB 591, by Representatives Cyrus, A. Jones, Little, Maggard, Siler, Keith, L. Clark, P. Clark, Donnermeyer and Priddy: AN ACT relating to workers' compensation.

HB 592, by Representative Worthington: AN ACT relating to the General Assembly.

HB 593, by Representatives Blevins, Moberly, Richards and Curd: AN ACT relating to law enforcement.

HB 594, by Representative Gray: AN ACT relating to cemeteries and funeral homes.

HB 595, by Representatives Moberly, Noe, T. Jones, Blevins, Morris and Bruce: AN ACT relating to sex equity in educational programs and activities.

HB 596, by Representative Sheehan: AN ACT relating to crimes and punishments.

HB 597, by Representatives Blevins, Worthington and Noland: AN ACT relating to long-term care facilities.

HB 598, by Representatives Rapier and Crupper: AN ACT relating to sales and use taxes.

HJR 120, by Representative Little: A JOINT RESOLUTION directing the Secretary of the Transportation Cabinet to designate a portion of United States Highway 23 and Kentucky Route 197, "The Trail of the Lonesome Pine Parkway".

Report of Committees

The Committee on Rules reported **HB 39**, **HB 70**, **HB 241**, **HB 242**, **HB 311**, **HB 369**, **HB 372**, **HB 373** and **HB 438** have been posted for passage in Orders of the Day, February 14, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, February 14, 1990: **HB 73**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 256**, **HB 300**, **HB 418**.

The Committee on Rules reported **HB 19**, **HB 82**, **HB 245**, **HB 247**, **HB 268**, **HB 272**, **HB 287**, **HB 301**, **HB 310**, **HB 317**, **HB 342**, **HB 365**, **HB 388**, **HB 394**, **HB 422**, **HB 424**, **HB 456**, **HB 472**, **HB 484**, **HJR 45** and **HJR 54** have been posted for passage in Orders of the Day, February 15, 1990.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Banking and Insurance: **SB 19**, **SB 161**, **HB 558**.

Education: **HB 529**.

Health and Welfare: **HB 355**.

Report of Committees

The Committee on Agriculture and Small Business reported **HB 441** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 441, AN ACT relating to a burley tobacco assessment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.750 is amended to read as follows:

With respect to any referendum conducted under the provisions of KRS 247.710 to 247.785, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours, and polling places for voting in the referendum, the effective date of the assessment. if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which the amount so collected shall be applied. No assessment levied in any marketing year shall be less than fifty cents (50) nor more than ***one hundred***[~~ten~~] dollars ***($100.00)*** [~~($10)~~] per marketing quota.

The Committee Amendment No. 1 to **HB 441** is as follows:

Amend printed copy of **HB 441** on page 1, line 14, after "(50)" by placing a bracket before and striking through "nor"; and

On line 15, by placing a bracket after and striking through "more than" and by placing brackets around and striking through "dollars"; and

On line 15, by deleting "***one hundred***" and "***($100.00)***".

The Committee on Natural Resources and Environmental Protection reported **HB 30** with Committee Substitute attached thereto, **HB 34** with Committee Substitute attached thereto, **HB 142** with Committee Substitute attached thereto, **HB 420** and **HJR 68** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 30, AN ACT relating to recycling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

It is the finding of the General Assembly that a necessary component of waste management must be to reduce the quantity of waste; that recycling reduces the quantity of solid waste and reduces the costs to the state and local governments for collecting, transporting, landfilling, or incinerating solid waste, reduces litter on roadsides and waterways, creates income producing opportunities, and conserves energy and raw materials. It is also the finding of the General Assembly that government makes purchases in large volumes which significantly affects the availability, variety, price, and consumer acceptance of the products and services purchased by government. The General Assembly further finds that by eliminating policies and practices which discriminate against government procuring recycled material content products as well as products and services compatible with recycled material content goods, and that by requiring government purchases of products which contain the maximum possible amount of recycled materials, the availability and variety of recycled material content products will increase and removal and recycling of materials from the solid waste stream will grow. Finally, the General Assembly finds that instituting policies and practices to stimulate the availability and use of recycled material content products will help educate business and individual consumers about the value of recycling as a component of a waste management policy.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context clearly indicates otherwise, "state agency" means any agency of the executive, legislative, or judicial branch of state government which purchases goods or services through a centralized state purchasing agency or which is authorized to directly purchase goods and services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall prohibit a state agency from purchasing goods, supplies, equipment, materials and printing for which a recycled material content substitute is not available or when the state agency can justify specifications for goods, supplies, equipment, materials and printing which cannot be met by recycled material content substitutes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Every state agency shall review and revise existing procurement procedures and specifications for the purchase of goods, supplies, equipment, material and printing to:

(a) Eliminate procedures and specifications that explicitly or indirectly discriminate against goods, supplies, equipment, material, and printing with recycled material content;

(b) Require the use of goods, supplies, equipment, materials, and printing, which are of the highest degree of durability, reusable, recyclable, or which are compatible with goods, supplies, equipment, material, and printing with recycled material content; and

(c) Eliminate unnecessary specifications for goods, supplies, equipment, material, and printing when less expensive alternative specifications may be substituted without affecting the intended use of what is purchased.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Every state agency shall purchase goods, supplies, equipment, materials and printing, which have a minimum recycled material content as set by regulations promulgated by the cabinet. For goods, supplies, equipment, materials and printing for which the United States Environmental Protection Agency has adopted procurement guidelines pursuant to the Resource Conservation and Recovery Act of 1976, as amended, the minimum percentage of recycled material content shall not be less than specified in the guidelines.

(2) Every vendor of goods, supplies, equipment, materials and printing which meet the requirements for recycled material content shall be given a price preference of ten percent (10%) when compared to vendors offering goods, supplies, equipment, materials and printing which do not meet the requirements. The vendor shall give a certification declaring the percentage of recycled material content of what is being offered.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Every person entering into a contract with a state agency for building, altering, repairing, improving, or demolishing any public structures or buildings or other improvements to any public real property shall use goods, supplies, equipment, materials and printing necessary to fulfill the contract which meet the requirements for recycled material content.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Every project within Kentucky financed fifty percent (50%) or more by bonds issued by a state agency shall be undertaken with goods, supplies, equipment, materials and printing which meet the requirements for recycled material content.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Every state agency shall revise procurement procedures in order to inform all vendors offering goods, supplies, equipment, materials and printing to state agencies, all persons seeking to enter into contracts with state agencies, all persons seeking to undertake projects within Kentucky financed fifty percent (50%) or more by bonds issued by state agencies of the requirements of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Every county, city, school district and special district may purchase goods, supplies, equipment, material and printing through the central purchasing agency of the state. Counties, cities, school districts and special districts which purchase goods, supplies, equipment, material and printing through the state shall receive a fifty percent (50%) reduction of any administrative cost fee the central purchasing agency is authorized to charge.

SECTION 10. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Rigid plastic container" means any formed or molded article comprised predominantly of plastic resin and having a relatively inflexible finite shape or form intended primarily as a single service container with a capacity of eight (8) ounces or more and less than five (5) gallons;

(b) "Rigid plastic bottle" means any rigid plastic container with a neck that is smaller than the container body with a capacity of sixteen (16) ounces or more and less than five (5) gallons; and

(c) "Label" means a code label described in this section molded into the bottom of the plastic product.

(2)(a) All rigid plastic bottles and rigid plastic containers sold in Kentucky on and after July 15, 1991, shall be labeled with a code which indicates the resin used to produce the rigid plastic bottle or rigid plastic container. Rigid plastic bottles or rigid plastic containers with labels and basecups of a different material

shall be coded by each plastic type. The code shall consist of a number placed inside a triangle and letters placed below the triangle. The triangle shall be equilateral, formed by three (3) arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer or arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three (3) arrows curved at their midpoints, shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

1 = **PETE (polyethylene terephthalate)**

2 = **HDPE (high density polyethylene)**

3 = **V (vinyl)**

4 = **LDPE (low density polyethylene)**

5 = **PP (polypropylene)**

6 = **PS (polystyrene)**

7 = **OTHER (represents all other resins, including layered plastics of a combination of materials)**

SECTION 11. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall, when necessary in implementing this Act, use definitions and resin codes which are the same as those most widely used in other government jurisdictions and which shall more likely promote the recycling of waste.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall report to the Interim Joint Committee on Agriculture and Natural Resources on the implementation of this Act. The report shall be submitted no later than October 31, 1991.

The Committee Substitute to **HB 30** is as follows:

HB 30, AN ACT relating to recycling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

It is the finding of the General Assembly that a necessary component of waste management must be to reduce the quantity of waste; that recycling reduces the quantity of solid waste and reduces the costs to the state and local governments for collecting, transporting, landfilling, or incinerating solid waste, reduces litter on roadsides and waterways, creates income producing opportunities, and conserves energy and raw materials. It is also the finding of the General Assembly that government makes purchases in large volumes which significantly affects the availability, variety, price, and consumer acceptance of the products and services purchased by government. The General Assembly further finds that by eliminating policies and practices which discriminate against government procuring recycled material content products as well as products and services compatible with recycled material content goods, and that by requiring government purchases of products which contain the maximum possible amount of recycled materials, the availability and variety of recycled material content products will increase and removal and recycling of materials from the solid waste stream will grow. Finally, the General Assembly finds that instituting policies and practices to stimulate the availability and use of recycled material content products will help educate business and individual consumers about the value of recycling as a component of a waste management policy.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context clearly indicates otherwise, "state agency" means any agency of the executive, legislative, or judicial branch of state government which purchases goods or services through a centralized state purchasing agency or which is authorized to directly purchase goods and services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall prohibit a state agency from purchasing goods, supplies, equipment, materials and printing for which a recycled material content substitute is not available or when the state agency can justify specifications for goods, supplies, equipment, materials and printing which cannot be met by recycled material content substitutes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Prior to the issuance of an invitation for bid pursuant to KRS 45A.080 or a request for proposal pursuant to KRS 45A.085, the Finance and Administration Cabinet, the Legislative Research Commission and the Administrative Office of the Courts on behalf of their respective branches of state government shall review and revise specifications for the purchase of goods, supplies, equipment, material and printing to:

(a) Eliminate specifications that explicitly or indirectly discriminate against goods, supplies, equipment, material, and printing with recycled material content; and

(b) Eliminate unnecessary specifications for goods, supplies, equipment, material, and printing when less expensive alternative specifications may be substituted without affecting the intended use of what is purchased.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Every state agency shall when purchasing goods, supplies, equipment, materials and printing require a minimum recycled material content for those goods, supplies, equipment, materials and printing as set by the United States Environmental Protection Agency procurement guidelines established pursuant to the Resource Conservation and Recovery Act of 1976, as amended.

(2) The Finance and Administration Cabinet and the Natural Resources and Environmental Protection Cabinet shall jointly conduct a study to determine, but not be limited to, the following:

(a) The availability of goods, supplies, equipment, material, and printing with recycled material contents for which the U.S. Environmental Protection Agency has not established procurement guidelines; and

(b) The availability and use by state agencies of goods, supplies, equipment, materials, and printing, which are of the highest degree of durability, reusable, recyclable, or which are compatible with goods, supplies, equipment, material, and printing with recycled material content.

(3) The Finance and Administration Cabinet may promulgate regulations requiring state agencies to make purchases based upon the study and the guidelines established in subsection (2) of this section.

(4) The study shall be presented to the Interim Joint Committee on Agriculture and Natural Resources no later than July 1, 1991.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet may require, to the extent practicable, every person entering into a contract with a state agency for building, altering, repairing, improving, or demolishing any public structures or buildings or other improvements to any public real property to use goods, supplies, equipment, materials and printing necessary to fulfill the contract which meet the U.S. E.P.A. requirements for recycled material content.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet may require, to the extent practicable, that every project within Kentucky financed fifty percent (50%) or more by bonds issued by a state agency be undertaken with goods, supplies, equipment, materials and printing which meet the requirements for recycled material content.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet, the Legislative Research Commission and the Administrative Office of the Courts shall, on behalf of their respective branches of state government inform all vendors offering goods, supplies, equipment, materials and printing to state agencies of the requirements of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Every county, city, school district and special district may purchase for any state agency price contract established pursuant to KRS 45.365 goods, supplies, equipment, material and printing which meet the U.S.E.P.A. procurement guidelines for minimum recycled material content through the central purchasing agency of the state. Counties, cities, school districts and special districts which purchase under authority of KRS 45.365 pursuant to a state agency price contract goods, supplies, equipment, material and printing which meet the U.S.E.P.A. procurement guidelines for minimum recycled material content shall receive a fifty percent (50%) reduction of any administrative cost fee the central purchasing agency is authorized to charge.

HB 34, AN ACT relating to lead acid batteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No person shall:

(a) Dispose of lead acid batteries by placing them in mixed solid waste;

(b) Accept lead acid batteries for disposal in a landfill or an incinerator; or

(c) Discard or abandon a lead acid battery in any manner except as allowed by this Act.

(2) Proper disposal of lead acid batteries shall mean delivery to:

(a) A retail seller of new lead acid batteries;

(b) A permitted lead smelter;

(c) A facility which will recycle the batteries by extracting the lead and chemical components for reuse; or

(d) A collection center which delivers to a smelter or a recycling facility.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Retail sellers of new lead acid batteries shall:

(a) Accept, if offered, used lead acid batteries, but the seller shall be required to accept only one (1) used battery for each new battery sold; and

(b) Post notice at the place of retail sales that they are required to accept, if offered, a used lead acid battery for each new battery sold.

The Committee Substitute to **HB 34** is as follows:

HB 34, AN ACT relating to lead acid batteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No person shall:

(a) Dispose of lead acid batteries by placing them in mixed solid waste;

(b) Accept lead acid batteries for disposal in a landfill or an incinerator; or

(c) Discard or abandon a lead acid battery in any manner except as allowed by this Act.

(2) Proper disposal of lead acid batteries shall mean delivery to:

(a) A retail seller of new lead acid batteries;

(b) A person who sells lead acid batteries at wholesale;

(c) A permitted secondary lead smelter;

(d) A facility which will recycle the batteries by extracting the lead and chemical components for reuse; or

(e) A collection center which delivers to a smelter or a recycling facility.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Retail sellers of new lead acid batteries shall:

(a) Accept, if offered, used lead acid batteries, but the seller shall be required to accept only one (1) used battery for each new battery sold; and

(b) Post notice at the place of retail sales that they are required to accept, if offered, a used lead acid battery for each new battery sold.

(2) Wholesale sellers of new lead acid batteries shall:

(a) Accept used lead acid batteries of the same type as the new batteries sold and in a quantity equal to the number of new batteries sold; and

(b) Remove used lead acid batteries from the retailer's place of business no later than ninety (90) days after the retailer notifies the wholesaler that there are used lead acid batteries ready for recycling.

Section 3. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, 224.140, 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of ten thousand dollars ($10,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(2) Any person who violates subsections (2), (3), (4), or (5) of KRS 224.032, or KRS 224.835, 224.842, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for a term of not more than one (1) year, or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who knowingly or with criminal negligence violates KRS 224.060, 224.140, 224.835, 224.330, 224.842 or any determination, permit, administrative regulation or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000), or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) Should any person engage in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fail to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty

not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle, except with permission of the owner of such receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates a provision of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools.

(13) A violation of Section 2 of this Act shall be subject to a fifty dollar ($50) fine for each day the violation continues.

HB 142, AN ACT relating to the Kentucky Emergency Response Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39.800 to 39.905 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall institute a fee system to assist in the administration of its programs and activities at both state and local levels.

(2) (a) Any facility required to report under the provisions of KRS 39.800 to 39.905 shall annually submit to the Commission the required fee of forty dollars ($40) no later than March 1. This paragraph shall not apply to facilities that pay a fee pursuant to paragraph (b) of this subsection.

(b) Any facility required to report under the provisions of KRS 39.800 to 39.905 and which meets any of the following standards shall annually submit to the Commission the required fee of two hundred and fifty dollars ($250) no later than March 1.

1. The facility has any of the extremely hazardous substances identified in 40 CFR Part 355, as amended;

2. The facility has eleven (11) or more hazardous substances as defined at KRS 39.805(5); or

3. The facility has a total inventory of hazardous substances as defined by KRS 39.805(5) of over 99,999 pounds.

(3) The funds derived from the fee system shall be placed in a trust and agency account, which shall be known as the "Kentucky Emergency Response Commission Fee Account," and which shall not lapse. The funds in the account shall be expended only for the purpose specified in subsection (1) of this section.

(4) The commission shall develop administrative regulations to implement the provisions of this section, for issuance by the Division of Disaster and Emergency Services. These administrative regulations shall not alter the standards established pursuant to subsection (2) of this section but may raise or lower the dollar amount of the fees established in paragraphs (a) and (b) of subsection (2) of this section.

Section 2. KRS 39.990 is amended to read as follows:

(1) Any person violating any provision of KRS 39.400 to 39.432 or any rule, order, or regulation made pursuant to KRS 39.400 to 39.432 shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine or imprisonment.

(2)*(a) When a person violates KRS 39.845, 39.850, 39.880, or 39.895, the commission chairman shall proceed against that person under paragraph (b) of this subsection or subsection (3) of this section but not both.*

(b) Any person violating KRS 39.845, 39.850 or 39.895 shall, upon the first conviction thereof, be fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating KRS 39.845, 39.850 or 39.895 shall, upon subsequent convictions, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating KRS 39.880 shall, upon the first conviction thereof, be fined not less than one thousand dollars ($1,000) nor more than twenty-five hundred dollars ($2,500). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating KRS 39.880 shall, upon subsequent conviction, be fined not less than twenty-five hundred dollars ($2,500) nor more than five thousand dollars ($5,000). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor.

(3) Any person violating any provision of KRS 39.800 to 39.905 shall be assessed a civil penalty of not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). If any violation is continued for more than one (1) day, each day upon which the violation occurs or is continued shall be considered and constitute a separate violation and a separate civil penalty may be imposed therefor.

(4) Funds generated under this section shall be deposited in the general fund.

The Committee Substitute to **HB 142** is as follows:

HB 142, AN ACT relating to the Kentucky Emergency Response Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39.800 to 39.905 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall institute a fee system to assist in the administration of its programs and activities at both state and local levels.

(2) (a) Any facility required to report under the provisions of KRS 39.800 to 39.905 shall annually submit to the Commission the required fee of forty dollars ($40) no later than March 1. This paragraph shall not apply to facilities that pay a fee pursuant to paragraph (b) of this subsection.

(b) Any facility required to report under the provisions of KRS 39.800 to 39.905 and which meets any of the following standards shall annually submit to the Commission the required fee of two hundred and fifty dollars ($250) no later than March 1.

1. The facility has any of the extremely hazardous substances identified in 40 CFR Part 355, as amended;

2. The facility has eleven (11) or more hazardous substances as defined at KRS 39.805(5); or

3. The facility has a total inventory of hazardous substances as defined by KRS 39.805(5) of over four hundred ninety-nine thousand nine hundred ninety-nine (499,999) pounds.

(c) If the same owner or owners own two (2) or more facilities in a single county and all of the facilities are required to submit fees pursuant to paragraph (a) of this subsection, the fees due from the owner or owners shall not exceed a total of two hundred fifty dollars ($250) for all those facilities in that county.

(d) The provisions of this subsection shall not apply to a facility owned or operated by local, state, or federal government.

(3) The funds derived from the fee system shall be placed in a trust and agency account, which shall be known as the "Kentucky Emergency Response Commission Fee Account," and which shall not lapse. The funds in the account shall be expended only for the purpose specified in subsection (1) of this section.

(4) The commission shall develop administrative regulations to implement the provisions of this section, for issuance by the Division of Disaster and Emergency Services.

Section 2. KRS 39.990 is amended to read as follows:

(1) Any person violating any provision of KRS 39.400 to 39.432 or any rule, order, or regulation made pursuant to KRS 39.400 to 39.432 shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine or imprisonment.

(2)***(a) When a person violates KRS 39.845, 39.850, 39.880, or 39.895, the commission chairman shall proceed against that person under paragraph (b) of this subsection or subsection (3) of this section but not both.***

(b) Any person violating KRS 39.845, 39.850 or 39.895 shall, upon the first conviction thereof, be fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating KRS 39.845, 39.850 or 39.895 shall, upon subsequent convictions, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating KRS 39.880 shall, upon the first conviction thereof, be fined not less than one thousand dollars ($1,000) nor more than twenty-five hundred dollars ($2,500). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating KRS 39.880 shall, upon subsequent conviction, be fined not less than twenty-five hundred dollars ($2,500) nor more than five thousand dollars ($5,000). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor.

(3) Any person violating any provision of KRS 39.800 to 39.905 shall be assessed a civil penalty of not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). If any violation is continued for more than one (1) day, each day upon which the violation occurs or is continued shall be considered and constitute a separate violation and a separate civil penalty may be imposed therefor.

(4) Funds generated under this section shall be deposited in the general fund.

Section 3. The first annual fee generated pursuant to Section 1 of this Act shall be paid no later than March 1, 1991, and shall cover calendar year 1990.

HB 420, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.470 is amended to read as follows:

(1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional civil or mining engineer registered in Kentucky ***or land surveyor registered in Kentucky who has three (3) years experience in underground surveying and preparation of maps approved by the Department of Mines and Minerals.*** [~~KRS 322.340 requires that~~] Plats, ***and related materials shall be*** [~~etc.~~] be stamped with their seal ***pursuant to KRS 322.340.*** The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by the mining laws of this state, and covers the period ending ____________, Certifying Agent

"Acknowledged before me, a ____________, this ________ day of ____________"

____

____________ SEAL

(2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

HJR 68, A JOINT RESOLUTION continuing the Kentucky Water Management Task Force.

WHEREAS, the General Assembly realizes the extreme importance of the state's water resource to the health and welfare of all Kentuckians; and

WHEREAS, the 1982 General Assembly created and the 1988 General Assembly reestablished the Kentucky Water Management Task Force to assist the Natural Resources and Environmental Protection Cabinet " . . . in the development of a plan for the total management of the state's water resource"; and

WHEREAS, the task force provides a vehicle for citizen participation in discussion of water issues across the state and the need for continued discussion is important to the development of Kentucky's water resource; and

WHEREAS, the General Assembly is aware that the proper planning for the wisest utilization of the state's water resource is complex and time consuming and requires additional fact-findings;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission, intending to obtain information and determine the facts about the management of Kentucky's water resource, shall appoint members to serve on the reestablished Kentucky Water Management Task Force. The task force shall consist of the following members: two members of the House of Representatives, one member of the Senate; and one each from the Natural Resources and Environmental Protection Cabinet, the Cabinet for Human Resources, Kentucky Geological Survey, Kentucky Department of Agriculture, Commerce Cabinet, Kentucky Association of Counties, Kentucky Municipal League, Kentucky Flood Control Advisory Commission, Kentucky Rural Water Association, Inc., Kentucky Conservation Committee, Society of Professional Engineers, Kentucky Medical Association, League of Kentucky Sportsmen, Kentucky League of Women Voters, Kentucky Chamber of Commerce, Kentucky Chapter of the American Water Works Association and two industry representatives. The member from the Commerce Cabinet shall be experienced in economic development. The member from the Society of Professional Engineers shall be experienced in water-related projects. One of the three members of the General Assembly appointed to the task force shall be chairperson.

Section 2. The Kentucky Water Management Task Force shall obtain information from any source for the purpose of determining the facts in relation to the continued development and implementation of state government's plan for the management of the Commonwealth's water, as provided in KRS Chapters 146, 151, and 224, with particular attention to water supply.

Section 3. That state agencies shall report information to the task force as requested.

Section 4. That each of the state agencies having a member on the task force shall assign a staff person to work with the task force to assure that the task force can accomplish its purpose. The role of the Legislative Research Commission staff shall be to coordinate staff assigned by the state agencies.

Section 5. That the members of the task force shall be reimbursed their expenses in attending meetings, and the task force shall report any findings, conclusions, recommendations, and legislative proposals to the Legislative Research Commission by September 1, 1991.

Section 6. That Legislative Research Commission staff services to be utilized in the conduct of this effort are estimated to cost $24,000, and shall be provided from the regular commission budget, subject to the limitations and other research responsibilities of the Commission.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 391**, by Representative Long:

Amend printed copy of **HB 391** on page 6, line 7, after the word "*section.*" insert the following: "***Nothing in this section shall preclude the cabinet from complying with the provisions of KRS Chapters 45 and 56 relating to the requirements to report the purchase or lease of real property or equipment to the Capital Projects and Bond Oversight Committee.***"

Floor Amendment No. 1 to **HB 84**, by Representative Donnermeyer:

Amend printed copy of **HB 84** by deleting lines 3 through 12 in their entirety and inserting in lieu thereof:

(1) The Legislative Research Commission, shall establish and maintain a legislative electronic information system that includes the status of bills and resolutions publicly active within the legislative process and related information, including sponsors, summaries and committee referrals. Electronic access to this information shall be made available to all agencies of the Commonwealth, its political subdivisions, and to the public. The Legislative Research Commission shall impose such conditions and restrictions upon nonlegislative access as it determines necessary.

(2) Interim committee information, including membership, meeting times, locales, agendas and related information shall be a part of the legislative electronic information system. Electronic access to this information shall be as provided in subsection one (1) above.

(3) The text of the Kentucky Revised Statutes and the text of the Kentucky Administrative Regulations shall be a part of the legislative electronic information system. Access to these texts shall be limited to agencies of the Commonwealth and its political subdivisions. Copyright interests of the Statutes publishers, which include case annotations, cross-reference notes, editor's notes, compiler's notes and collateral reference notes, shall not be violated.

SECTION 2. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) For the services rendered in providing access to the legislative electronic information system, the Legislative Research Commission may charge and collect fees as it determines, which shall be a reasonable and sufficient proportion of the costs for maintaining the system and furnishing access. No fee shall be charged to legislative users, including individual legislators.

Floor Amendment No. 2 to the Committee Substitute to **HB 339**, by Representative Lewis:

Amend printed copy of HCS to **HB 339** on page 9, line 8, after the word "***administrator,***" by deleting the following language: "***otherwise in the name of the***";

And on page 9, line 9, by deleting line 9 in its entirety;

And on page 9, line 10, by deleting the following language: "***assessment date,***".

On page 11, line 24, before "***(8)***" by deleting all of lines 24 through 26 in their entirety and on page 12 before line 1 by deleting all of lines 1 through 18 in their entirety.

Floor Amendment No. 3 to the Committee Substitute to **HB 339**, by Representative Blevins:

Amend printed copy of HCS for **HB 339** on page 11, lines 24 through 26, delete in their entirety

On page 12, lines 1 through 18, delete in their entirety.

Floor Amendment No. 1 to **HB 247**, by Representative L. Clark:

Amend printed copy of **HB 247** on page 1, line 7, to delete "***shelter or other facility***" and to insert in lieu thereof, "***facility authorized by county or city ordinance***; and

On page 2, line 20, to delete "***, shelter or other facility***" and to insert in lieu of "***or facility authorized by county or city ordinance***".

Floor Title Amendment to the Committee Substitute to **HB 272**, by Representative Richards:

Amend printed copy of HCS to **HB 272** to change title to delete "and declaring an emergency".

Floor Amendment No. 1 to the Committee Substitute to **HB 272**, by Representative Richards:

Amend printed copy of HCS to **HB 272** on page 28, below line 11, to add the following:

"Section 10. The following KRS section is repealed:

218A. 430 Maximum ceilings on proceeds."

Floor Amendment No. 2 to **HCR 75**, by Representative Worthington:

Amend printed copy of **HCR 75** on page 1, by deleting the second "WHEREAS" clause, and by substituting therefor:

"WHEREAS, there are currently over five hundred fire departments of various sorts in Kentucky, including municipal and county departments, taxing and nontaxing special districts, nonprofit corporations, subscription departments, community fire departments and loosely organized volunteer associations; and";

And on page 2, line 3, by deleting "fifteen (15)" and by substituting therefor "sixteen (16)"; and

On page 2, line 13, by adding after "corporations," the words: "one (1) representative of community fire departments,".

Floor Amendment No. 1 to **HB 53**, by Representative B. Smith:

Amend printed copy of **HB 53** on page 1, line 7 by deleting "***18,***"

On page 1, line 13 after "***provisions***" by inserting "***not otherwise specifically authorized by statute***"

On page 2, after line 6 by adding:

"***(3) The provisions of this Act shall not apply to group and blanket health insurance contracts.***"

Floor Amendment No. 1 to **HB 46**, by Representative Stumbo:

Amend printed copy of **HB 46** on page 7, beginning on line 15, by deleting the subsection; and

On line 19, by deleting "***(9)***" and replacing it with "***(8)***"

Floor Amendment No. 1 to **HB 259**, by Representative T. Jones:

Amend printed copy of **HB 259** on page 3, line 15, by deleting "***(1)***"; and

On page 3, line 20, by deleting "***(a)***" and inserting in lieu thereof "***(1)***"; and

On page 3, line 24, by deleting "***1.***" and inserting in lieu thereof "***(a)***"; and

On page 3, line 25, by deleting "***2.***" and inserting in lieu thereof "***(b)***"; and

On page 3, line 26, by deleting "***3.***" and inserting in lieu thereof "***(c)***"; and

On page 4, line 1, by deleting "***(b)***" and inserting in lieu thereof "***(2)***"; and

On page 4, line 4, by deleting "***1.***" and inserting in lieu thereof "***(a)***"; and

On page 4, line 5, by deleting "***2.***" and inserting in lieu thereof "***(b)***"; and

On page 4, line 6, by deleting "***3.***" and inserting in lieu thereof "***(c)***" ; and

On page 4, line 7, by deleting "***(c)***" and inserting in lieu thereof "***(3)***"; and

On page 4, line 9, by deleting "***(d)***" and inserting in lieu thereof "***(4)***"; and

On page 4, by deleting lines 13 through 20 in their entirety.

The Clerk announced the following meetings:

The Committee on Appropriations and Revenue, 10:00 a.m., February 14, 1990.

The Committee on Economic Development and Tourism, 12:30 p.m., February 14, 1990.

The Committee on Elections and Constitutional Amendments, 12 noon, February 14, 1990.

The Committee on Labor and Industry, 8:30 a.m., February 14, 1990.

The Committee on Counties and Special Districts, 8:30 a.m., February 14, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 14, 1990.

On the roll call the vote was yeas 87—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Nelson, Nett, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 2—Hourigan, Lile.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 14, 1990

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James R. Fuller, Stamping Ground Baptist Church, Stamping Ground.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Butler.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 13, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 155, SB 198, SB 213, SB 214, SB 216** and **HB 21.**

Introduction of Bills and Resolutions

HB 599, by Representatives Ballard, Bruce, P. Richardson, Mack, Pritchett, Ridley, Freibert and Castleman: AN ACT relating to income tax refund desins.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 570, HB 584, HB 587, HB 590.**

Appropriations and Revenue: **HB 579, HB 583, HB 598, SB 4.**

Banking and Insurance: **HB 580, HB 586.**

Business Organizations and Professions: **HB 566, HB 568, HB 577, HB 594.**

Counties and Special Districts: **HB 569, HB 571, HB 585, HB 596.**

Economic Development and Tourism: **HB 589.**

Education: **HB 572, HB 574, HB 575, HB 582, HB 593, HB 595.**

Energy: **HB 564.**

Health and Welfare: **HB 597.**

Judiciary: **HB 573, SB 99, SB 168.**

Labor and Industry: **HB 591.**

Natural Resources and Environmental Protection: **HB 563, HB 565.**

State Government: **HJR 119, HB 576, HB 578, HB 581, HB 588, HB 592.**

Transportation: **HB 567, HJR 120.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Education: **HB 556.**

Report of Committees

The Committee on Labor and Industry reported **HB 285** with Committee Amendment attached thereto, **HB 288** and **HB 496** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 285, AN ACT relating to underground coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.127 is amended to read as follows:

(1) A certified emergency medical technician trained as defined by the commissioner with [~~such~~] training provided for by the commissioner shall be employed at every underground coal mine with ***two (2)*** [~~twenty-five (25)~~] or more employees engaged in the extraction, production, or preparation of coal. An additional emergency medical technician shall be employed for every additional one hundred (100), or majority fraction thereof, employees who are engaged in the extraction, production, or preparation of coal. Any [~~such~~] mine without a certified emergency medical technician trained as defined by the commissioner shall be allowed ninety (90) days to employ a certified emergency medical technician and may continue to operate during this ninety (90) day period. If these emergency medical technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(2) If the operator does not have a sufficient number of certified emergency medical technicians in his employ to meet the requirements of subsection (1) of this section, persons to be trained as emergency medical technicians shall be selected from the operator's existing employees by the operator from the employees engaged in the extraction, production, or preparation of coal. Persons so selected who attend training requisite to becoming an emergency medical technician shall be paid their regular wages during training.

(3) Certified emergency medical technicians shall receive eight (8) hours of annual retraining during which they shall receive their regular wages.

The Committee Amendment No. 1 to **HB 285** is as follows:

Amend printed copy of **HB 285** on page 1, line five, by deleting "***two (2)***" and inserting in lieu thereof: "***twelve (12)***"; and

On page 1, line 9, by bracketing and striking through "one hundred (100)" and inserting in lieu thereof: "***fifty (50)***".

HB 288, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

All miners shall wear safety glasses as needed. The safety glasses shall be supplied to the miners by the coal operator at no cost to the miner.

SECTION 2. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

All miners shall wear safety glasses as needed. The safety glasses shall be supplied to the miners by the coal operator at no cost to the miner.

HB 496, AN ACT relating to hazardous materials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.200 is amended to read as follows:

As used in KRS 227.200 to 227.400, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of housing, buildings and construction;

(2) "Department" means the Department of Housing, Buildings and Construction;

(3) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning or explosion;

(4) ***"Hazardous materials" means any chemical that by itself or when combined with other chemicals may cause a hazard to life and property by fire or explosion;***

(5) "Owner" means any person who owns, occupies or has charge of any property;

(6)[~~(5)~~] "Property" means property of all types, both real and personal, movable and immovable;

(7)[~~(6)~~] "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;

(8)[~~(7)~~] "Order" or "special order" means an order of the state fire marshal, designed for the prevention of fire loss, that affects or may affect the property rights of a particular owner or designated property.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs under the responsibility of state agencies which are intended to protect the safety of the people and property within the Commonwealth from present and future threats associated with the handling, storage and transportation of hazardous materials.

(2) In addition to all specific responsibilities contained elsewhere in this chapter, the state fire marshal's office shall:

(a) Respond effectively and in a timely manner to emergencies created by hazardous material spills which result in or threaten to result in fire loss, or the threat of fire or explosion or danger to the community from the handling, storage and transportation of hazardous materials;

(b) Provide for post-monitoring and control of the hazardous spill site for material under its authority by this chapter;

(c) Require owners to perform adequate testing, planning and contracting for removal and cleanup of hazardous material spills; and

(d) The state fire marshal shall recover actual and necessary expenses incurred in carrying out the duties under this section.

(3) The state fire marshal shall recover from persons liable for the hazardous material spill any extraordinary costs incurred by the department in response to the spill. The General Assembly recognizes the existence of a cause of action on behalf of the state fire marshal but does not intend to expand or contract the bases of liability, the elements of proof or the amount of liability of any person.

The Committee on Counties and Special Districts reported **HB 347** with Committee Substitute attached thereto, **HB 449** with Committee Substitute attached thereto, and **HB 493** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 347, AN ACT relating to special ad valorem taxes for local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 91A.430 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

(1) ***For the purposes of this section, "local government" means a city, county or urban county government.***

(2) In order that a ***local government*** [~~city~~] may provide funding for a specified project, program or service, any ***local government*** [~~city~~] may enact a special ad valorem tax for ***the*** [~~such a~~] purpose subject to the following:

(a) Any such tax shall be enacted by ordinance as provided in KRS 83A.060 ***for cities and KRS 67.076 to 67.078 for counties and KRS 67A.070 for urban counties***. The ordinance shall identify and generally describe the program, project or service designated by the ***local government*** [~~city~~] and provide for the levy of an annual tax sufficient to defray the cost;

(b) Upon first reading of the ordinance which will enact a special ad valorem tax, the ***chief executive authority*** [~~mayor~~] shall direct that a copy of the ordinance be delivered to the county clerk;

(c) Upon receipt of the ordinance, the county clerk shall have prepared the question, which shall be "Are you in favor of the proposal entitled ______________________? Yes____ No____" The question shall be placed before the voters of the ***local government*** [~~city~~] at the next regular election that is held not earlier than ninety (90) days after receipt of the ordinance. The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as other voter information, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal;

(d) The provisions of the general election law shall apply to questions submitted to voters under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the ***chief executive authority of the local government proposing the special ad valorem tax.*** [~~mayor and~~] The certificate shall be entered upon the records of the ***local government*** [~~city~~] at the next regular meeting of the [~~city~~] legislative body;

(e) Upon passage of the question by a simple majority of those voting, the ***local government*** [~~city~~] may proceed with the final adoption of the ordinance levying the special ad valorem tax at a rate not to exceed that approved by the voters.

(3)[~~(2)~~] Any special ad valorem tax imposed under the authority of this section shall be based upon the assessed valuation of all taxable property within the ***jurisdictional boundaries of the local government*** [~~city~~].

(4)[~~(3)~~] Any [~~such~~] special ad valorem tax shall be collected in the same manner as are other [~~city~~] ad valorem taxes. The revenues generated shall be in addition to other taxes and used solely for the specified project, program or service as designated by the ordinance enacting the tax. The proceeds of the tax shall be accounted for in a separate fund and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than provided by the ordinance enacting the special ad valorem tax.

(5)[~~(4)~~] Any [~~such~~] special ad valorem tax shall be in addition to the tax rate levied and exclusive of the recall provisions in KRS ***67A.070, 68.245, 91.260, 92.280, 132.077 and*** 132.027.

The Committee Substitute to **HB 347** is as follows:

HB 347, AN ACT relating to special ad valorem taxes for local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 91A.430 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

(1) ***For the purposes of this section, "local government" means a city or county government.***

(2) In order that a ***local government*** [~~city~~] may provide funding for a specified project, program or service, any ***local government*** [~~city~~] may enact a special ad valorem tax for ***the*** [~~such a~~] purpose subject to the following:

(a) Any such tax shall be enacted by ordinance as provided in KRS 83A.060 ***for cities and KRS 67.076 to 67.078 for counties.*** The ordinance shall identify and generally describe the program, project or service designated by the ***local government*** [~~city~~] and provide for the levy of an annual tax sufficient to defray the cost;

(b) Upon first reading of the ordinance which will enact a special ad valorem tax, the ***chief executive authority*** [~~mayor~~] shall direct that a copy of the ordinance be delivered to the county clerk;

(c) Upon receipt of the ordinance, the county clerk shall have prepared the question; which shall be "Are you in favor of the proposal entitled ____________________? Yes____ No____." The question shall be placed before the voters of the ***local government*** [~~city~~] at the next regular election that is held not earlier than ninety (90) days after receipt of the ordinance. The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as other voter information, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal;

(d) The provisions of the general election law shall apply to questions submitted to voters under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the ***chief executive authority of the local government proposing the special ad valorem tax.*** [~~mayor and~~] The certificate shall be entered upon the records of the ***local government*** [~~city~~] at the next regular meeting of the [~~city~~] legislative body;.

(e) Upon passage of the question by a simple majority of those voting, the ***local government*** [~~city~~] may proceed with the final adoption of the ordinance levying the special ad valorem tax at a rate not to exceed that approved by the voters.

(3)[~~(2)~~] Any special ad valorem tax imposed under the authority of this section shall be based upon the assessed valuation of all taxable property within the ***jurisdictional boundaries of the local government*** [~~city~~].

(4)[~~(3)~~] Any [~~such~~] special ad valorem tax shall be collected in the same manner as are other [~~city~~] ad valorem taxes. The revenues generated shall be in addition to other taxes and used solely for the specified project, program or service as designated by the ordinance enacting the tax. The proceeds of the tax shall be accounted for in a separate fund and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than provided by the ordinance enacting the special ad valorem tax.

(5)[~~(4)~~] Any [~~such~~] special ad valorem tax shall be in addition to the tax rate levied and exclusive of the recall provisions in KRS ***68.245, 91.260, 92.280, 132.017, and*** 132.027.

HB 449, AN ACT relating to license taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city or ***county or*** urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective January 1 or July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least sixty (60) days prior to the effective date, a copy of all ordinances and amendments thereto which impose any such license fee or tax. The commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities or ***county or*** urban-county governments which have elected to impose such license fees or taxes and the current amount of such license fee or rate of tax.

(2) Any license fee or tax imposed by such a city or ***county or*** urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of such premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of such city or ***county or*** urban-county government.

(3) Any license fee or tax imposed by such a city or ***county or*** urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by such company within each calendar quarter on risks located within the corporate limits of the city or ***county or*** urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the worker's compensation act.

(4) The Department of Insurance shall, by ***administrative*** regulation, provide for a ***uniform system of city, county, or urban-county government tax collection which shall include the following:***

(a) That the ultimate premiums charged policyholders by an insurer subject to this section shall not be unfairly or discriminately applied to similar risks who are subject to differing city, county, or urban-county government tax rates or between those subject to a tax and those who are not;

(b) If city, county, or urban-county government taxes are included in the premium, each policy issued to an insured shall include a notice that the premium includes a charge for the taxes; and

(c) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting ***the*** [~~such~~] tax***, except***[~~; provided, however,~~] that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city***, county*** or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided ***in this section*** [~~herein~~], the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee ***in this section*** [~~herein~~], may be rounded off to the nearest dollar amount.

(5) ***Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this Act, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.***

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by ***administrative*** regulations promulgated by the department of insurance.

(7)[~~(6)~~] Upon written request of the legislative body of any city or ***county or*** urban-county government, at the expense of the requesting city or ***county or*** urban-county government, which shall be paid in advance by such city or ***county or*** urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or ***county or*** urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or ***county or*** urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8)[~~(7)~~] The license fees or taxes provided for by subsections (2), and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city or ***county or*** urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9)[~~(8)~~] Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city or ***county or*** urban-county government is separate of penalties provided for in subsection (6) of this section. No city or ***county or*** urban-county government may impose any penalties other than those provided for in this subsection.

(10)[~~(9)~~] No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2) and 18A.228.

(11) No license fee or tax imposed under this section shall apply to premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county.

(13) For purposes of determining the city license fee credit, the territorial or jurisdictional boundaries of a city shall be those that existed on the date the county imposed a license fee under the provisions of subsection (1) of this section.

Section 2. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more, may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees and businesses, the fiscal court may provide:

1.[~~(a)~~] For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions and other compensation earned within the county for work done and services performed or rendered in the county; and

2.[~~(b)~~] For an annual fixed amount license fee which an individual, partnership, professional association, joint venture or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company ***except as provided in KRS 91A.080***, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No such license fee shall be imposed or collected on income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

The Committee Substitute to **HB 449** is as follows:

HB 449, AN ACT relating to license taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city or ***county or*** urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective January 1 or July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least sixty (60) days prior to the effective date, a copy of all ordinances and amendments thereto which impose any such license fee or tax. The commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities or ***county or*** urban-county governments which have elected to impose such license fees or taxes and the current amount of such license fee or rate of tax.

(2) Any license fee or tax imposed by such a city or ***county or*** urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of such premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of such city or ***county or*** urban-county government.

(3) Any license fee or tax imposed by such a city or ***county or*** urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by such company within each calendar quarter on risks located within the corporate limits of the city or ***county or*** urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the worker's compensation act.

(4) The Department of Insurance shall, by ***administrative*** regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting ***the*** [~~such~~] tax***, except***[~~; provided, however,~~] that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city***,*** ***county*** or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided ***in this section*** [~~herein~~], the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee ***in this section*** [~~herein~~], may be rounded off to the nearest dollar amount.

(5) ***Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this Act, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.***

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by ***administrative*** regulations promulgated by the department of insurance.

(7)[~~(6)~~] Upon written request of the legislative body of any city or ***county or*** urban-county government, at the expense of the requesting city or ***county or*** urban-county government, which shall be paid in advance by such city or ***county or*** urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or ***county or*** urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or ***county or*** urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8)[~~(7)~~] The license fees or taxes provided for by subsections (2), and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city or ***county or*** urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9)[~~(8)~~] Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city or ***county or*** urban-county government is separate of penalties provided for in subsection (6) of this section. No city or ***county or*** urban-county government may impose any penalties other than those provided for in this subsection.

(10)[~~(9)~~] No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2) and 18A.228.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county.

Section 2. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more, may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees and businesses, the fiscal court may provide:

1.[~~(a)~~] For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions and other compensation earned within the county for work done and services performed or rendered in the county; and

2.[~~(b)~~] For an annual fixed amount license fee which an individual, partnership, professional association, joint venture or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company ***except as provided in KRS 91A.080***, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No such license fee shall be imposed or collected on income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

HB 493, AN ACT relating to waterworks in counties with cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district.[;]

A waterworks owned by a city of the first class and operated under the provisions of KRS 96.230 to 96.320 also is a utility within the meaning of this chapter;

(4) "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(13) "Commission" means the Public Service Commission of Kentucky;

(14) "Commissioner" means one (1) of the members of the commission.

Section 2. KRS 96.230 is amended to read as follows:

(1) Whenever any city of the first class owns, through its commissioners of the sinking fund, all the shares of capital stock in any corporation engaged in supplying water to the city and its inhabitants, the city shall control, manage and operate the plant of the corporation, its franchise, and all its other property, in the manner provided in KRS 96.240 to 96.310. The provisions of KRS 96.230 to 96.310 shall not affect the status of the stock as part of the assets of the sinking fund.

(2) Ownership by the city shall not exempt a waterworks corporation from regulation under KRS Chapter 278.

SECTION 3. A NEW SECTION OF KRS 96.230 TO 96.310 IS CREATED TO READ AS FOLLOWS:

(1) The board of waterworks shall extend the waterwork corporation's facilities to offer water service to all residences and businesses in the county in which the city is located, but which do not already receive water service. The extension of water mains and facilities required by this section shall be completed no later than November 1, 1996.

(2) The costs of any extension shall be apportioned against the property to which the waterwork corporation's service will be made available by reason of such extension, on an equitable basis, but in no case shall a new customer be charged more than five thousand dollars ($5,000) for extension of service to one (1) lot or tract.

(3) The waterwork corporation shall notify each owner of the amount to be assessed against his lot or tract and shall maintain for public inspection detailed estimates of construction costs, including right-of-way acquisition, and of property assessments for a period of at least one (1) year after construction of the extension is completed.

(4) Upon completion of the water line extension, the board of waterworks shall issue apportionment warrants against all properties assessed, shall immediately list the record owners of each property assessed in alphabetical order on a register kept for that purpose, and shall notify each property owner of the amount of the apportionment warrant on his property. A property owner may pay the assessment in full within thirty (30) days after the notice has been given and pay no interest, or may elect to pay the warrant in equal monthly installments, not exceeding two hundred and forty (240) months with interest payments not in excess of seven percent (7%) per annum. When the warrant has been paid in full, the board of waterworks shall mark on the register the fact of payment and release the lien provided for by subsection (5) of this section.

(5) A lien superior to all liens except the liens for state, county, city, school and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the cost of the water line extension and the interest due thereon, commencing with the date of issuance of the apportionment warrant.

(6) Any owner of property to be assessed for a water line extension may, at any time after receipt of the initial notice under subsection (3), but no later than thirty (30) days after final assessment notices are sent under subsection (4), apply to defer the assessment against his property, or against one (1) or more lots or tracts, as follows:

(a) The owner may decline water service made available to one (1) or more lots or tracts assessed for the extension. If the owner declines service, in writing to the board of waterworks, he waives his claim to water service to the property and the assessment is deferred. If a subsequent owner desires water service at a later time, that owner shall pay the deferred assessment together with accrued interest for the number of years from the date of the initial assessment until the property was purchased, but for no more than twenty (20) years.

(b) The owner may apply to defer payment of extension and installation costs by submitting an appeal to the board of hardship appeals, created by Section 4 of this Act, if his income is insufficient to cover the cost of the assessment and hookup. The board of hardship appeals shall notify the board of waterworks immediately of any appeal received, and the board of waterworks shall defer the assessment against the applicant's property until disposition of the appeal. The board of waterworks shall treat all information about hardship appeals confidentially. If the board of hardship appeals grants a deferral, the amount assessed but not paid for extension and hookup, shall become a deferred lien against the property, payable in full, together with accrued interest for a period not to exceed twenty (20) years, upon the subsequent sale or transfer of the property.

(7) Any costs incurred to extend water service to existing but previously unserved residents or businesses in the county under this section, which are in excess of assessments against property served by the extension, may be recouped through contributions by municipal or county governments, or through reduced payments into the city sinking fund or by other means, but shall not be recouped by means of any charge or assessment against current customers.

(8) Nothing in this section shall prohibit the board of waterworks from entering into other agreements or contracts with developers or builders for the extension of water service to new residential subdivisions or commercial development within the county.

SECTION 4. A NEW SECTION OF KRS 96.230 to 96.310 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a board of hardship appeals to hear and decide the disposition of appeals under Section 3(6)(b) of this Act. The board shall consist of seven (7) members appointed for four (4) year terms as follows: two (2) shall be appointed by the county judge/executive, two (2) by the mayor of the city of the first class, and one (1) by each of the three (3) county commissioners. No official shall appoint more than one (1) member of the same political party. Initial members of the board shall be appointed no later than January 1, 1991. Members of the board shall receive no compensation but shall be reimbursed by the fiscal court of the county for actual and necessary expenses. Vacancies shall be filled in the same manner as the original appointment to fill the remainder of the unexpired term.

(2) The board members shall elect one (1) member to serve as chairman. Four (4) members shall constitute a quorum for the conduct of business.

(3) The board shall review any appeal of a property owner subject to an assessment for extension of water lines to serve existing residences or businesses within the county, which appeal asserts that the owner is unable to pay the assessment or connection fees for water service due to disability or other economic hardship. After review of relevant information and any hearing deemed necessary, the board may grant or deny a deferral of the assessment against the property, or may defer part of the amount owed, as the board deems proper.

(4) As part of its review, the board may require an applicant for deferral to provide complete financial records and may conduct its own investigation. Information concerning an individual applicant shall be confidential.

(5) Decisions of the board shall be binding upon the applicant and upon the board of waterworks. The board shall notify the applicant and the board of waterworks of its decisions.

(6) On or before April 1 of each year, the board shall report to the county fiscal court the number of applications it received, the number decided, the number of assessments deferred, and the number of applications denied.

Section 5. The following KRS sections are repealed:

96.315 Extension of service to persons not currently served — Costs — Assessments — Apportionment warrants — Liens.

Section 6. Section 1 and Section 2 of this Act shall become effective on July 1, 1992.

The Committee Amendment No. 1 to **HB 493** is as follows:

Amend printed copy of **HB 493** on page 1, by deleting lines 1 through 20 in their entirety;

On pages 2, 3, and 4, by deleting lines 1 through 26 on each page in their entirety;

On page 5, by deleting lines 1 through 5 in their entirety;

On page 5, line 6, by deleting "SECTION 3." and inserting in lieu thereof "SECTION 1."

On page 8, line 20, by deleting "SECTION 4." and inserting in lieu thereof "SECTION 2."

On page 10, line 11, by deleting "Section 5." and inserting in lieu thereof "Section 3."

On page 10, lines 15 and 16 by deleting in their entirety.

Calendar

HB 30, HB 34, HB 108, HB 132, HB 142, HB 158, HB 356, HB 362, HB 385, HB 391, HB 420, HB 460, HB 462, HB 465 and **HJR 68** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 393, HB 400, HB 441, HB 476, HB 482, SB 46, SCR 4 and **SCR 5** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative K. Harper moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative K. Harper moved the adoption of the following Legislative Citation No. 37. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds your achieving the rank of Eagle Scout. The rank of Eagle Scout is achieved by less than two percent of all scouts. The rank of Eagle is an individual award earned according to National Boy Scouts of America requirements and standards. This accomplishment could only be reached by dedication, hard work, and a positive spirit. Your civic contributions are noteworthy and demonstrate leadership qualities.

This prestigious body joins Representative Ken Harper in saluting you for achieving the rank of Eagle Scout.

Orders of the Day

HB 46, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of Floor Amendment No. 1 to **HB 46**. Agreed.

Representative McElroy moved that **HB 46**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 14, 1990 roll call on **HB 46** - Appendix.)

HB 46, as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 46**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 75, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of Committee Amendment No. 1 to **HCR 75**. Agreed.

Representative Strong moved the adoption of Floor Amendment No. 1 to **HCR 75**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 2 to **HCR 75**. Agreed.

Representative L. Clark moved that **HCR 75**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 14, 1990 roll call on **HCR 75** - Appendix.)

HCR 75, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HCR 75**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 126 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **SB 126** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 14, 1990 roll call on **SB 126** - Appendix.)

SB 126 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 126** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 127 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **SB 127** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 14, 1990 roll call on **SB 127** - Appendix.)

SB 127 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 127** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 128 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **SB 128** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 14, 1990 roll call on **SB 128** - Appendix.)

SB 128 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 128** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 14 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 14** be passed.

On the roll call the vote was: Yeas 91, Nays 7. (See February 14, 1990 roll call on **HB 14** - Appendix.)

HB 14 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 14** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 433 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 433** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 14, 1990 roll call on **HB 433** - Appendix.)

HB 433 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 433** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 53 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 53** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 14, 1990 roll call on **SB 53** - Appendix.)

SB 53 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 53** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 54 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 54** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 14, 1990 roll call on **SB 54** - Appendix.)

SB 54 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 54** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 56 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 56** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 14, 1990 roll call on **SB 56** - Appendix.)

SB 56 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 56** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 59 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 59** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 14, 1990 roll call on **SB 59** - Appendix.)

SB 59 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 59** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 61** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 14, 1990 roll call on **SB 61** - Appendix.)

SB 61 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 61** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 62 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 62** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 14, 1990 roll call on **SB 62** - Appendix.)

SB 62 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 62** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 117, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of House Committee Substitute to **SB 117**. Agreed.

Representative Kerr moved that **SB 117**, by way of Committee Substitute, be passed.

Representative Little moved that **SB 117**, by way of House Committee Substitute, be laid on the Clerk's Desk.

On the roll call the vote was yeas 21—Allen, Altman, Barrows, Bentley, Clarke, Cline, Jensen, Keith, Layman, Lear, LeMaster, Little, Morris, Nelson, O'Brien, Reinhardt, Scorsone, Stokes, Strong, Todd, White. Nays 74—Ackerson, Adkins, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Kerr, Lefevers, Lewis, Lile, Long, Lyne, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nett, Noe, Noland, Northup, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Riner, Sheehan, Siler, B. Smith, R. Smith, Stumbo, Turner, Walker, Ward, Worthington.

The motion that **SB 117**, by way of the House Committee Substitute, be laid on the Clerk's desk was rejected.

On the roll call the vote was: Yeas 62, Nays 29. (See February 14, 1990 roll call on **SB 117** - Appendix.)

SB 117, by way of Committee Substitute, was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 117**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 84, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Floor Amendment No. 1 to **HB 84**. Agreed.

Representative Donnermeyer moved that **HB 84**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 16. (See February 14, 1990 roll call on **HB 84** - Appendix.)

HB 84, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 84**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 369 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 369** be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 14, 1990 roll call on **HB 369** - Appendix.)

HB 369 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 369** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 311 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 311** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 14, 1990 roll call on **HB 311** - Appendix.)

HB 311 was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 311** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 73, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Todd moved the adoption of Committee Substitute to **HB 73**. Agreed.

Representative Todd moved that **HB 73**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 14, 1990 roll call on **HB 73** - Appendix.)

HB 73, by way of Committee Substitute, was passed and the title agreed to.

Representative Todd moved that the vote by which **HB 73**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 438 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 438** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See February 14, 1990 roll call on **HB 438** - Appendix.)

HB 438 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 438** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 60, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 60** is as follows:

Amend printed copy of **HB 60** on page 1, line 14 after "the" by inserting the word "***eight (8)***";

On page 1, line 16 after the word "education" by inserting the following: "***and one (1) representative of the community college student body presidents elected from among themselves***";

On page 1, line 17 by deleting the word "***all***" and by inserting after "***the***" the word "***nine (9)***".

Representative Scorsone moved that the House concur in Senate Amendment No. 1 to **HB 60**. Agreed.

Representative Scorsone moved that **HB 60**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 14, 1990 roll call on **HB 60** - Appendix.)

HB 60, as amended by the Senate, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 60**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Northup moved that **HB 535** be withdrawn. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 16, Representative Donnermeyer; **HB 62**, Representative Farrow; **HB 71**, Representative Farrow; **HB 128**, Representative Blevins; **HB 207**, Representatives Blevins, Keith, Maggard, Mason; **HB 229**, Representatives Lefevers, Maggard, Napier; **HB 232**, Representatives Blevins, L. Clark, Yates; **HB 242**, Representative Bruce; **HB 298**, Representatives Curtsinger, Yates; **HB 352**, Representatives Casebier, Lile; **HB 354**, Representative B. Smith; **HB 447**, Representative LeMaster; **HB 471**, Representative Lefevers; **HB 476**, Representatives Barrows, Blevins, L. Clark, Cline, LeMaster, Yates; **HB 575**, Representatives

Castleman, Curd, Gray, Gregory, Jackson, Mack, Mason, Preston, Pritchett, P. Richardson, Siler; **HB 581**, Representative Gedling; **HB 596**, Representative Kerr; **HJR 105**, Representative Maggard; **HR 121**, Representative Long.

The following members filed requests to have their names withdrawn as co-sponsors of Bills: **HB 242**, Representative Todd; **HB 581**, Representative Siler.

Representative Mason moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Mason moved the adoption of the following Legislative Citation No. 38. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Doris Whitaker for creating and maintaining public awareness of the dangers of Route 119. Whereas, Doris Whitaker has used many hours of personal time to organize support for the reconstruction of Route 119; whereas, Doris Whitaker promoted and executed a motorcade of Letcher County residents to the State Capitol in an impressive effort to generate state support for reconstruction of Route 119 from Partridge to Whitesburg. For it is a constant source of agony to parents of school children who daily cross Mighty Pine Mountain to and from school. This prestigious body applauds the efforts of this courageous individual.

Representative Stumbo moved that **HB 557** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 600, by Representative O'Brien: AN ACT relating to small claims court.

HB 601, by Representative A. Jones: AN ACT relating to prosecutors and declaring an emergency.

HB 602, by Representative Walker: AN ACT relating to physician-patient privilege.

HB 603, by Representative Lear: AN ACT relating to corrections.

HB 604, by Representatives Stumbo, Noe, Ridley, Bentley, White, Adkins, Deskins, Mason, Ballard, Siler, Keith, Maggard, Little, Nelson, Jensen, McElroy, R. Smith, Preston, Blevins, Strong, Lefevers, Noland, Todd and Pritchett: AN ACT relating to economic assistance for local governments and schools, making an appropriation, and declaring an emergency.

HB 605, by Representative Ark: AN ACT relating to insurance.

HB 606, by Representatives Noe, Moberly, Ward, Barrows, Bruce, White, Bentley, T. Jones, Geveden, Scorsone and Blevins: AN ACT relating to Parents as First Teachers.

HB 607, by Representatives Barrows, Hancock, Crupper, Farrow and Long: AN ACT relating to classified service job vacancies.

HCR 122, by Representatives Long and Scorsone: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the child day-care system in the Commonwealth and make recommendations related thereto.

HJR 123, by Representative Lear: A JOINT RESOLUTION creating a legislative task force on sentences and sentencing practices, making an appropriation therefor, and declaring an emergency.

HJR 124, by Representative B. Richardson: A JOINT RESOLUTION directing the Cabinet for Human Resources in conjunction with the Department of Education to develop a policy to promote appropriate and early diagnosis and treatment of scoliosis.

HCR 125, by Representative Blandford: A CONCURRENT RESOLUTION directing that a special committee be formed to study the potential impact of federal initiatives on the Kentucky economy and develop a state strategy for addressing those impacts.

HCR 126, by Representative Blandford: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Labor and Industry to study the implications of demographic changes in Kentucky, especially those involving the age and work patterns of Kentucky citizens.

HCR 127, by Representative Blandford: A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the availability of foreign trade opportunities with eastern bloc countries.

HCR 128, by Representative Blandford: A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the potential impacts of reductions in defense spending on the economy of Kentucky.

HCR 129, by Representative Blandford: A CONCURRENT RESOLUTION recognizing April 22, 1990, to be "Earth Day" in the Commonwealth of Kentucky.

Report of Committees

The Committee on Rules reported **HB 232, HB 351, HB 460, HB 462, HB 487, HR 20** and **SB 47** have been posted for passage in Orders of the Day, February 16, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 16, 1990: **HB 128, HB 320, HB 393, HB 400, HB 404, HB 441, HB 476, HB 482, SCR 4, SCR 5.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 436, HB 509, HB 522, HB 538, HB 543.**

Elections and Constitutional Amendments: **HB 198.**

Health and Welfare: **HB 506.**

Energy: **HB 494, SB 122.**

Education: **HB 452.**

Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 489** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 489, AN ACT relating to election campaign financing, making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 121A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky finds and declares the following:

(1) The enactment of a system of public financing of election campaigns is an essential means to protect the integrity of the electoral process and ensure the maintenance of free democratic government;

(2) It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the Commonwealth, and to enable candidates to have an equal opportunity to present their programs to the voters;

(3) Our democratic system of government can be maintained only if the electorate is informed;

(4) A publicly funded system of financing election campaigns will encourage full discussion of issues, provide a fair and equal opportunity for all candidates to participate in the election process, and reduce the undue influence of special interests in election campaigns and the daily affairs of government; and

(5) Public financing provides a neutral source of revenue to assist candidates in raising sufficient money to communicate their views and positions adequately to the voters. Public financing provides a level playing field to facilitate competitive campaigns and promote public discussion of the issues. By providing public financing of election campaigns, the potential corrupting influence of special interests and large contributions is diminished, and candidates can reduce their reliance on these sources of funding. Public financing reduces the fundraising advantages of incumbents while allowing all candidates to devote less time to fundraising and more time to discussion of the issues.

SECTION 2. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying candidate;

(4) "Qualifying contribution" means a contribution made to a candidate for Governor by and from a natural person or committee which is authorized to contribute to candidates which is paid by personal check, cashier's check or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, or nonmonetary contribution;

(5) "Qualifying candidate" means any candidate of a political party or any independent nominee for the office of Governor whose name is qualified to appear on the primary or general election ballot and who has otherwise qualified under this Act to receive a transfer from the election campaign fund;

(6) "Candidate campaign account" means the bank account established by a candidate for Governor in a bank insured by the Federal Deposit Insurance Corporation for the sole purpose of receiving subsidy payments from the fund and contributions or other moneys raised from personal resources;

(7) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a candidate to further his nomination or election to the office of Governor authorized by the campaign committee treasurer or other authorized individual;

(8) "Committee" means one (1) of the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates for nomination or election to the office of Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; or

(d) An executive committee of a political party;

(9) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, or campaign committee. As used in this subsection, "loan" shall include a guarantee, endorsement or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a campaign committee, candidate, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum in excess of the contribution limit provided in KRS 121.150(6);

(b) Payment by any individual other than the candidate, his authorized treasurer, or campaign committee, of compensation for the personal services of another individual which are rendered to a candidate's campaign;

(c) Goods, advertising, or services furnished to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such goods or services;

(d) Payment by any individual other than the candidate, his authorized treasurer, or campaign committees for any goods, or services utilized in a candidate's campaign;

(e) Expenditure in connection with any other activity undertaken independently of the candidate's campaign made or furnished for the purpose of influencing the results of an election.

Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate; or

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; and

(10) "Candidate" means any individual who has received contributions or made expenditures, has appointed a campaign treasurer, designated a campaign depository pursuant to this Act, or has given his consent for any other individual to receive contributions or make expenditures, with a view to bringing about his nomination or election to the office of Governor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) There is established under the direction of the registry a special fund to be known as the election campaign fund.

(2) The registry shall distribute transfers for the matching of qualifying political campaign contributions to qualifying candidates for the office of Governor as provided in Section 8 of this Act. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose.

(3) The registry shall report to the General Assembly within three (3) months following a gubernatorial election the total amount paid to all qualifying candidates for qualified matching contributions.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of four (4) years.

(5) All candidate campaign committees, including those of candidates rejecting expenditure limitations, shall report all expenditures to the registry not less than every thirty (30) days following the general election of a year preceding a gubernatorial election year and not less than every fourteen (14) days during the fifty-six (56) days immediately preceding the primary election and the fifty-six (56) days immediately preceding the general election of a gubernatorial election year, in lieu of other reporting provisions of law.

(6) After each primary and each general election in a gubernatorial election year, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by the candidate's campaign committees and issue a separate report on each campaign committee.

(7) The registry shall adopt administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) A candidate for Governor who receives transfers from the fund may make campaign expenditures which, in the aggregate, including the expenditure of transfers from the fund, shall not exceed three million three hundred thousand dollars ($3,300,000) in connection with a primary election campaign and two million eight hundred thousand dollars ($2,800,000) in connection with a general election campaign. These amounts shall be increased or decreased in accordance with the consumer price index, and the registry shall annually make that adjustment.

(2) It shall be unlawful for a candidate for Governor who receives transfers from the fund or who is otherwise subject to expenditure limitations to exceed the expenditure limitations of subsection (1) of this section through an additional reported or unreported expenditure by any person, committee, or organization which does not qualify as an "independent expenditure" as defined in KRS 121.150(1).

(3) A candidate for Governor who elects to receive transfers from the fund may receive contributions from permanent committees or political issues committees, which, in the aggregate, shall not exceed ten percent (10%) of the maximum expenditure limitations provided by subsection (1) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Each candidate for Governor shall file a statement of intent to accept or to reject a transfer from the election campaign fund. The statement shall be filed not later than the deadline for filing nomination papers.

(2) A qualifying candidate who intends to accept a transfer shall swear that the candidate and the candidate's authorized agents have complied with and will continue to comply at all times with applicable contribution and expenditure limits.

(3) A qualifying candidate shall designate in the statement of intent whether the candidate will accept or reject a transfer in either the primary or the general election. A candidate who receives a transfer from the fund in either the primary or general election shall be bound to the contribution and expenditure limits of Section 4 of this Act throughout the campaign. A candidate who rejects expenditure limitations in a primary shall not be eligible to receive matching transfers from the fund in the general election.

(4) Prior to the payment by the registry of either a primary election transfer or a general election transfer,

a candidate may rescind his statement of acceptance not later than ten (10) calendar days after the date for filing nomination papers.

SECTION 6. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) In order to become a qualifying candidate for the purpose of receiving a transfer from the fund in a primary or general election, or both, a candidate shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(2) The registry shall immediately review a candidate's request for certification to receive matching transfers from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) His nomination papers;

(c) The financial reports filed by or on behalf of the candidate as of the date of the request for certification which indicate that the candidate has raised the threshold qualifying amount of three hundred thousand dollars ($300,000) in individual qualifying contributions intended to further his nomination or election. Although a qualifying contribution may be made in any amount up to that provided by KRS 121.150(6), only the first one thousand dollars ($1,000) of a total qualifying contribution may be counted toward the candidate's threshold qualifying amount. The threshold qualifying amount shall be increased or decreased in accordance with the consumer price index, and the registry shall annually make that adjustment; and

(d) Any other information reasonably necessary that is prescribed by the registry.

(3) The registry shall certify whether a candidate is eligible to receive a primary election transfer no later than seven (7) calendar days after the candidate submits the required documentation.

(4) The registry shall certify whether a candidate is eligible to receive a general election transfer not later than seven (7) calendar days after the candidate submits the required documentation; except that if the candidate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(5) A separate determination and certification shall be made for a primary and a general election.

(6) The certification issued by the registry shall indicate:

(a) Whether a candidate is eligible to receive a transfer; and

(b) The maximum amount of transfer the candidate is eligible to receive.

(7) If a candidate who has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the candidate is not eligible to receive a transfer; and,

(b) What action, if any, the candidate may take to qualify for a transfer.

(8) A candidate may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification.

(9) A candidate denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure.

SECTION 7. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) All payments received from the fund, and all contributions or personal resources of the candidate to be used for campaign expenditures shall be deposited in the candidate campaign account.

(2) Each deposit in excess of three hundred dollars ($300) made in the account of any candidate for Governor shall be accompanied by a short statement, in the form prescribed by the registry, showing:

(a) The amount of each contribution or amount of personal resources deposited;

(b) The date each contribution was received or each amount of personal resources was made available, and;

(c) The name, address, and, in the case of individuals, occupation of each contributor and the source

of the personal resources. The occupation listed for each contributor shall be specific. A general classification, such as "businessman," shall be insufficient.

(3) The candidate shall designate in writing, for purposes of this chapter, to be filed with the registry, not more than three (3) individuals who shall be authorized, in addition to the candidate, to withdraw funds from the candidate campaign account.

(4) No individual authorized to make withdrawals from the candidate campaign account shall pay any amount out of the account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address and occupation of each person, and the date and the amount disbursed. These invoices and statements shall be preserved by the candidate and made available for reasonable inspection and auditing by employees of the registry.

SECTION 8. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided by this chapter, a qualifying candidate is entitled, upon certification by the registry, to receive matching transfers from the fund in an amount equal, dollar for dollar, to each qualifying contribution received by the candidate, up to the maximum expenditure limitation for a primary or a general election.

(a) For purposes of receiving matching funds, the threshold qualifying contribution amount required by subsection (2)(c) of Section 6 of this Act shall be counted and matched by the fund.

(b) For purposes of receiving matching funds, only the first one thousand dollars ($1,000), or lesser amount, in individual total qualifying contributions for either the primary or the general election shall count toward the amount which a candidate may receive from the fund. If a total qualifying contribution to a candidate's primary election threshold qualifying amount or general election threshold qualifying amount is one thousand dollars ($1,000) or more, no additional contribution may be matched for that election; except that if the total contribution to a candidate's primary election threshold qualifying amount or general election threshold qualifying amount is less than one thousand dollars ($1,000), an additional qualifying contribution up to the one thousand dollar ($1,000) total may be matched.

(2) If, during the course of a primary or general election, the registry determines that the existing appropriations in the fund are insufficient to cover the anticipated matching payments, the registry shall reduce the matching ratio from one dollar ($1.00) for one dollar ($1.00) to the ratio the registry determines so as not to exceed the amount of the fund.

(3) The maximum amount of matching funds which may be received by a qualifying candidate in a primary election shall be one million five hundred thousand dollars ($1,500,000) and in a general election one million two hundred fifty thousand dollars ($1,250,000). These amounts shall be increased or decreased in accordance with the consumer price index, and the registry shall annually make that adjustment.

(4) (a) If the registry makes a finding of fact, after a public hearing of which all candidates shall be notified, that in the course of a primary election or general election campaign a candidate who has not accepted the provisions of this chapter has exceeded the expenditure limits as provided in Section 4(1) of this Act, the registry shall certify that those candidates who have elected to become eligible for matching funds or may in the future elect to become eligible for matching funds shall be released from expenditure limitations and shall continue to receive matching funds up to the maximum expenditure limitations;

(b) The registry shall conduct a public hearing within three (3) days after any report submitted to the registry by a candidate campaign committee indicates that expenditure limits have, or may have, been exceeded; and

(c) A public hearing shall be conducted within three (3) days upon petition to the registry by a candidate that, upon his knowledge and belief, another candidate has exceeded expenditure limitations.

(5) Nothing in this section shall prevent any candidate from notifying the registry in writing that his campaign committee has exceeded the expenditure limitations established by law. In that case, no public hearing shall be held and the registry shall certify that those candidates who have elected to become eligible for matching funds or may in the future elect to become eligible for matching funds shall be released from expenditure limitations and shall continue to receive matching funds up to the maximum, if qualified by law.

(6) Any carryover of money in a candidate campaign account, from whatever source derived, received prior to the date of the primary election if the candidate is seeking the primary nomination of his party, shall be counted for purposes of expenditure limitations in the general election but shall not be counted for purposes of receiving matching funds or for meeting the threshold qualifying amount.

(7) To be eligible for the matching transfers established by Section 8 of this Act, each qualifying candidate shall submit to the registry at the times and in the form and manner the registry may require, a matching transfer entitlement voucher. The voucher shall include the full name of all persons making a contribution to the candidate campaign committee together with the date, the exact amount of the contribution, the specific address and occupation of the contributor and any other information the registry may require.

(8) Within three (3) working days of the receipt of the voucher the registry shall:

(a) Make a determination, according to the procedures the registry may establish, as to whether each contribution enumerated on the voucher is consistent with the provisions of this chapter;

(b) Certify for payment to the candidate an amount equal to the sum of the qualifying contributions enumerated on the voucher; and

(c) Promptly upon certification, make a payment from the fund to the candidate or his authorized treasurer in the amount certified by the registry.

(9) For the purpose of financing primary election campaigns, the registry shall make no payment to a candidate entitled to payments from the fund earlier than January 1 of a gubernatorial election year.

(10) For the purpose of financing general election campaigns, if the candidate is not participating in a primary, is unopposed in a primary, or faces only token opposition in a primary, the registry shall make no payment to a candidate entitled to payments from the fund earlier than the date the results of the primary election preceding the gubernatorial general election are certified. For purposes of this section, "token opposition" means any candidate raising less than three hundred thousand dollars ($300,000) for his primary candidacy.

(11) If during the course of a primary or general election a candidate withdraws, dies, is otherwise removed from the ballot, or becomes the only candidate on the ballot, the fund shall certify and pay on vouchers previously submitted, but all subsequent vouchers shall not be certified nor shall payments be made.

(12) The registry shall not certify any portion of any contribution made to a candidate entitled to matching payments under the fund, which, when added to other contributions made by the same contributor to the candidate in connection with the primary election and in connection with the general election, violates the provisions of KRS 121.150.

(13) The registry shall perform a continuing audit of all candidates to ensure that candidates are in compliance with this chapter the election laws of the Commonwealth.

SECTION 9. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

If it appears, after a candidate has filed financial statements as required by KRS 121.180, that an unexpended balance of contributions and fund transfers exist which are not otherwise obligated for the payment of the expenses of the completed campaign and cannot be carried over to the general election, if the completed campaign is a primary, the fund shall be reimbursed a portion of the unexpended balance equal to the percentage of total campaign expenditures consisting of fund transfers. The reimbursement payment shall be due and owing within ten (10) working days after the filing of the final financial statement for a particular election.

SECTION 10. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

Any candidate who receives transfers from the fund shall comply with and be subject to all campaign finance requirements contained in Chapter 121 to the extent that the requirements are not inconsistent with the provisions of this chapter.

SECTION 11. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Any eligible candidate who is qualified and elects to receive matching transfers out of the fund shall, as an additional subsidy of his campaign, be entitled, if he requests in writing, to appear preceding both the primary and general election of a gubernatorial election year on the Kentucky Educational Television Network for one (1) period of at least one (1) hour or two (2) periods of thirty (30) minutes to be held within the last thirty (30) days prior to each election for the purpose of presenting his platform to the viewing electorate and otherwise educating the public as to his candidacy.

(2) The Kentucky Educational Television Network shall provide up to two (2) hours on two (2) separate occasions preceding both the primary and general election of a gubernatorial election year a debate by the candidates of each political party in the primary and by all candidates in the general election. One (1) debate

shall occur within the last thirty (30) days prior to the primary election and the other shall occur within the last thirty (30) days prior to the general election. All candidates who have elected to receive matching transfers from the fund shall participate in the debates.

(3) The Kentucky Educational Television Network shall be responsible for offering the candidate television time as prescribed in this section on the dates and at the times as may reasonably be determined. The network may adopt administrative regulations and procedures necessary to implement the requirements of this section.

SECTION 12. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any individual who receives any transfer from the fund, or to whom any portion of any transfer received from the fund is paid, willfully to use, or authorize the use of, the transfer or portion thereof for any purpose other than to defray the qualified campaign expenses with respect to which the payment was made or to expend the funds on any item or service otherwise prohibited under this chapter or the laws of this Commonwealth.

SECTION 13. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) (a) Any candidate, authorized treasurer, or any other individual who willfully violates the expenditure limitations imposed by Section 4 of this Act, willfully misuses any transfers from the fund in violation of Section 12 of this Act, or willfully falsifies any record required to be submitted or retained by the candidate under this chapter shall be fined not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000), or imprisoned for not less than one (1) year nor more than five (5) years, or both, and shall be disqualified from being appointed to or becoming a candidate for public office, or holding public office, for a period of five (5) years.

(b) In addition to the penalties set out in this subsection, pursuant to Section 151 of the Constitution of Kentucky, any candidate nominated or elected prior to a judicial determination that he has willfully committed any of the violations contained in this subsection shall, upon that judicial determination, forfeit his nomination, election, or public office.

(c) In addition to the penalties set out in this subsection, if any candidate, authorized treasurer, or any other individual acting in complicity with the candidate or treasurer is convicted of a violation of this subsection, the court shall order the defendant, the candidate and his treasurer to immediately refund all transfer payments to the election campaign fund and shall enter a judgment lien against the candidate campaign committee for that purpose.

(2) Any individual who violates any other provisions of this chapter, or of any administrative regulation promulgated by the registry under this chapter, shall be fined not more than one thousand dollars ($1,000), or imprisoned for not more than thirty (30) days, or both.

(3) If the registry determines that probable cause exists to believe a violation of this chapter has occurred, the registry shall immediately transmit its determination to the appropriate Commonwealth's attorney and the Attorney General.

SECTION 14. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

Sections 1 through 13 of this Act shall be known as the "Public Financing Campaign Act."

Section 15. KRS 121.120 is amended to read as follows:

(1) The registry shall appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry shall also appoint [~~such~~] other employees [~~as are~~] necessary to carry out the purposes of this chapter.

(2) The registry may conduct hearings with regard to possible violations and for the effective carrying out of its responsibilities the registry shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this chapter or enjoining violations thereof or recovering any penalty prescribed by this chapter.

(3) The registry shall adopt ***administrative*** [~~such~~] regulations, official forms and perform ***the*** [~~such~~] duties [~~as are~~] necessary to implement the provisions of KRS 121.015, [~~and~~] 121.110 to 121.200, ***and KRS Chapter 121A***. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;

(e) Preserve all reports for at least four (4) years from the date of receipt;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates and parties, containing the total receipts and expenditures, and the date, name, address and occupation, and amount contributed by each contributor, listed alphabetically, shown to have contributed in excess of three hundred dollars ($300);

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140(2); make public the fact that a violation has occurred and the nature thereof;

(j) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of any books, papers, correspondence, memorandums or other records and the attendance of witnesses which the registry deems relevant or material for the purpose of any investigation;

(k) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, or district office;

(l) Conduct audits of receipts and expenditures of all candidates running for statewide office;

(m) Require that candidates shall maintain their records for a period of four (4) years from the date of the general election in their respective political races;

(n) Initiate investigations and make investigations with respect to reports upon complaint by any registered voter and to initiate proceedings on its own motion; [~~and~~]

(o) Forward to the Attorney General any violations of this chapter which may become the subject of civil prosecution***; and***

(p) Direct and administer the election campaign fund pursuant to the scope and intent expressed by KRS Chapter 121A.

Section 16. There is appropriated to the election campaign fund in the office of the Registry of Election Finance out of the general fund in the State Treasury the sum of $3.2 million dollars for each of the fiscal years 1991 and 1992 for the purposes of Sections 1 through 14 and Section 15(3)(p) of this Act.

Section 17. Whereas the initial appropriation to the election campaign fund begins with fiscal year 1991 and the initial framework for the financing of gubernatorial election campaigns begins with the creation of that fund and the promulgation of necessary administrative regulations by which it shall be administered, an emergency is declared to exist and Sections 1, 2, 3(1), 3(7), 15 and 16 of this Act shall become effective upon its passage and approval by the Governor. All other sections of this Act shall become effective ninety (90) days following adjournment of the 1992 General Assembly.

The Committee Amendment No. 1 to **HB 489** is as follows:

Amend printed copy of **HB 489** on page 6, line 23, by deleting the word "***all***" and inserting in lieu thereof the word "***each***"; and

On page 6, line 24, by deleting the word "***candidates***" and inserting in lieu thereof the word "***candidate***"; and

On page 8, line 6, after the word "***adjustment***" by inserting the words "***beginning in 1996***"; and

On page 10, line 10, by deleting the word "***His***" and inserting in lieu thereof the words "***A copy of his***"; and

On page 10, line 24, after the word "***adjustment***" by inserting the words "***beginning in 1996***"; and

On page 11, line 11, by deleting the word "***registry***" and inserting in lieu thereof the words "***State Board of Elections***"; and

On page 15, line 7, after the word "***adjustment***" by inserting the words "***beginning in 1996***"; and

On page 18, line 20, after the word "***chapter***" by inserting the word "***and***".

The Committee on Economic Development and Tourism reported **HB 382, HB 417, HB 419** and **HJR 105** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 382, AN ACT relating to the Tourism Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.022 is amended to read as follows:

(1) The Department of Local Government shall administer and operate the outdoor recreation programs of the state and shall be responsible for developmental planning and the administration of United States Bureau of Outdoor Recreation funds.

(2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the ***Tourism Cabinet*** [~~department of parks~~] for administrative purposes.

Section 2. KRS 148.225 is amended to read as follows:

Two (2) [~~One (1)~~] of the three (3) members of the Breaks Interstate Park Commission appointed by the Governor pursuant to article II of the compact set forth in KRS 148.220 shall be the Lieutenant Governor ***and the secretary of the Tourism Cabinet.***

Section 3. KRS 148.522 is amended to read as follows:

(1) There is hereby created an agency of state government to be known as the Tourism Cabinet. The cabinet shall be headed by a secretary who shall be appointed by the Governor pursuant to the provisions of KRS 12.040. The secretary shall appoint such principal assistants and personnel pursuant to the provisions of KRS Chapters 12 and 18A as are necessary to enable him to perform the functions of his office.

(2) The cabinet shall consist of the office of the secretary, the Office of General Counsel, the Office of Administrative Services, the Department of Travel Development, the Department of Parks, ***the Department of Fish and Wildlife Resources, Kentucky Horse Park Commission, State Fair Board,*** and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet.

(3) ***All agencies in the cabinet shall submit an annual report, an annual audit, and any other official reports required by law to the secretary of the Tourism Cabinet.***

(4) The Office of General Counsel shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet and shall be directly responsible to the secretary.

(5)[~~(4)~~] The Department of Travel Development shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.

(6)[~~(5)~~] The divisions of tourism services and marketing and advertising services are created within the Department of Travel Development. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050. The division of tourism services shall operate the highway welcome centers, conduct a hospitality education program for the tourism industry, coordinate the provision of mail and telephone information services to visitors, and generate sales revenue to the tourism industry of the Commonwealth through participation in trade shows and markets. The division of marketing and advertising services shall be responsible for state tourism advertising, the state matching fund tourism advertising program, the development and maintenance of a marketing and research data base on tourism, market survey programs and special studies related to the tourism industry.

HB 417, AN ACT relating to the economic growth and development of the Appalachian region of Kentucky and declaring an emergency.

WHEREAS, it is recognized that the Commonwealth of Kentucky is made up of several major geographic regions, each of which differs significantly from the others in terms of terrain, economy, heritage and other physical and cultural features; and

WHEREAS, it is accepted that the Appalachian region of Kentucky has long suffered from the lack of adequate resources from which to promote and develop new diversified economic growth and to create new jobs and to be on an equal footing with other regions of Kentucky; and

WHEREAS, it is recognized that difficulties encountered by the private and the public sectors to diversify the economy of this region through new and expanded job opportunities are not the result of a single cause, but involve a complex range of human, economic and physical factors characteristic of the region; and

WHEREAS, there is a need to establish a partnership of public and private leaders in and relating to the Appalachian region of Kentucky to assure the planning, development and implementation of action-oriented strategies relating to economic development and the creation of new job opportunities for the region through tourism, industrial development, entrepreneurship, telecommunications, advanced technologies, wood industries, food processing and other agricultural industries, and any other business or industrial activity having economic potential for the region; and

WHEREAS, it is the intent of the General Assembly to promote and strengthen this partnership through a public body corporate and politic representing the Appalachian region of Kentucky, whose purposes shall be to strengthen and support, and not supplant, the efforts of local and regional development entities, including but not limited to, area development districts as provided in KRS Chapter 147A and local industrial development authorities as provided in KRS Chapter 152;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 154B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 through 19 of this Act, unless the context otherwise requires:

(1) "Area" or "region" means the geographical area represented by the East Kentucky Economic Development and Jobs Creation Corporation, including that part of Kentucky contained within the Appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended;

(2) "Articles of agreement" means the terms as specified in the intergovernmental agreement between the corporation and each participating local government made pursuant to this Act;

(3) "Board" means the board of directors of the corporation;

(4) "Bonds" or "notes" means revenue bonds, commercial paper revenue bonds, refunding revenue bonds, variable rate revenue bonds, notes or other obligations issued by the corporation under the authority of this Act;

(5) "Committee" means the executive committee of the board of directors of the corporation, possessing all powers, duties and responsibilities as provided in Section 7 of this Act, and as may be otherwise provided by the board;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Corporation" means the East Kentucky Economic Development and Jobs Creation Corporation;

(8) "Executive Director" means the chief administrator of the corporation having responsibility for its day to day operations, and possessing all duties, responsibilities and authorities as specified by the board or executive committee; and

(9) "Fund" means the East Kentucky Economic Development Fund as provided by Section 9 of this Act;

(10) "Local governing body" means the fiscal court of any county within the area or the legislative body of any city represented on the board of the corporation; and

(11) "Project" means any economic or job development activity or program or facility or undertaking located within the area which is planned, developed, implemented, operated, financed or otherwise assisted by the corporation pursuant to this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the East Kentucky Economic Development and Jobs Creation Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.875.

(2) The corporation is created and established to exercise and to perform those functions and activities as specified in this Act for the purpose of improving the economic well being of the people of the region, and otherwise promote and enhance the health and welfare of the people of the region by developing or assisting in projects aimed at creating new job opportunities or to assist existing regional industries or businesses in expanding employment opportunities within the region.

(3) Upon the effective date of this Act, and until August 1, 1990, the board of directors of the corporation shall consist of twenty-one (21) persons appointed by the Governor of the Commonwealth of Kentucky. These appointments shall be terminated on August 1, 1990, at which time and thereafter the corporation's board of directors shall be comprised as specified in Section 4 of this Act.

(4) The interim board of directors as specified in subsection (3) of this section shall be authorized to elect a temporary chairman, vice-chairman, secretary and treasurer, to prepare bylaws, to prepare and negotiate articles of agreement regarding the participation of local governments in the corporation, including the specification of the amount of financial support to be provided by each participating local government, as provided in Section 3 of this Act, and to conduct any business necessary to the establishment and organization of the corporation; however, the interim board shall not be authorized to issue bonds or to initiate any project which shall obligate current or future funds and resources of the corporation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Effective August 1, 1990, any member county and city as specified in subsection (2) of this section shall be provided membership on the board of directors of the corporation pursuant to Section 4 of this Act.

(2) Any county within the region and any city of the largest class within any county within the region shall become a member of the corporation when the local governing body of the county or of the city executes by official action an intergovernmental agreement as prescribed in KRS 65.240(2), and as prepared by the interim board of directors.

(3) KRS 65.260 and 65.300 shall not be applicable to any intergovernmental agreement made pursuant to subsection (2) of this section; however, before an agreement made pursuant to this section shall become effective, it shall be filed in the manner as prescribed in KRS 65.290.

(4) The board shall be authorized to amend as necessary the articles of agreement, and to negotiate the execution of the amendments with participating local governments.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) The corporation shall be governed by a board of directors whose membership shall consist of the following:

(a) The county judge executive, or his designee, of each county participating in the corporation pursuant to Section 3 of this Act;

(b) The mayor, or his designee, of each city participating in the corporation pursuant to Section 3 of this Act;

(c) Three (3) persons who shall be appointed by the Governor to represent areawide public or private sector interests and concerns;

(d) one (1) member for each area development district containing any county located within the region who shall be appointed by the board of directors of the area development districts; and,

(e) Such additional at-large citizen members as may be determined by the board, and specified in the bylaws and articles of agreement of the corporation; however, total at-large citizen membership on the board shall not exceed the total of those board members as provided in paragraphs (a), (b), (c) and (d) of this subsection.

(2) The terms of office on the board of each mayor and county judge executive shall be the same as their official tenure in office; the term of office for those persons appointed by the Governor shall be

the same as the Governor's tenure in office; and the term of office for all other members appointed to the board pursuant to paragraph (d) of subsection (1) of this section shall be four (4) years, but the term of office of all members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3) and four (4) years respectively.

(3) When a vacancy occurs in a seat held by a gubernatorial appointee, the Governor shall fill the vacancy within sixty (60) days from the date the vacancy first occurs. If the Governor fails to act within the specified time, then the chairman of the board may fill the vacancy upon confirmation by a majority of the members of the executive committee.

(4) When a vacancy occurs on the board in a seat held by a representative of an area development district, the appointing authority shall fill the vacancy within sixty (60) days from the date the vacancy first occurs. If the appointing authority fails to act within the specified time, the chairman of the board may fill the vacancy upon confirmation by a majority of the members of the executive committee.

(5) When a vacancy occurs on the board in a seat held by an at-large citizen member, then the chairman of the board may fill the vacancy upon confirmation by a majority of the executive committee. If the chairman does not act within sixty (60) days from the date the vacancy first occurs then the executive committee shall fill the vacancy.

(6) Vacancies of all elected local officials seated on the board shall be filled as prescribed in the articles of agreement as provided in Section 3 of this Act.

(7) Vacancies on the board or the executive committee shall not be counted for purposes of a quorum.

(8) All powers and authorities granted to the corporation under the provisions of this Act shall be vested in the board of directors, except as otherwise stated in this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Any member of the board as provided in subsection (1)(c)(d) and (e) of Section 4 of this Act may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, misfeasance or conflict of interest. When a member is removed, the reasons for removal shall be set forth in writing and shall be read at the next meeting of the board or executive committee, whichever occurs first.

(2) Meetings of the board shall be open to general public, and shall be held at least once annually, and called in the manner as specified in the corporation's bylaws. Special meetings of the board may be held on call of the chairman who shall give written notice to all members at least seven (7) days prior to the meeting, and shall contain the date, time and place, and the subjects that shall be discussed.

(3) The board shall adopt bylaws, articles of agreement and rules pertaining to operation of the corporation and shall keep minutes and records of all proceedings which shall be filed in the offices of the corporation.

(4) A simple majority of the total membership of the board shall constitute a quorum. Any member who has a direct personal or pecuniary interest in the outcome of any question before the board shall disclose the nature of the interest, and shall disqualify himself from voting on the question, and he shall not be counted for the purpose of a quorum. A simple majority of all members present where there is a properly constituted quorum shall be necessary to transact any official business, except that a vote of a simple majority of the total membership shall be necessary to adopt or amend the corporation's bylaws or articles of agreement. A quorum need not be present to adjourn a meeting of the board.

(5) The board shall annually elect a chairman and any other officer which it deems necessary and which are specified in the corporation's bylaws. Each officer shall be eligible for reelection at the expiration of his term. All officers of the board shall serve on the board's executive committee as specified in Section 7 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of this Act, including but not limited to:

(1) Adopt and have a common seal and alter the same at pleasure;

(2) Sue and be sued in its own name and plead and be impleaded;

(3) Adopt bylaws, prepare articles of agreement and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under this Act;

(5) Accept, receive and administer loans, grants, appropriations or other funds or gifts from both public and private sources, including but not limited to, local governments, the Commonwealth of Kentucky and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in Section 9 of this Act;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds payable from the revenues, rentals and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, and in such manner and under terms as may be provided by contract or agreement;

(10) Charge fees, rents and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers and other persons and employees as may be required in the judgment of the corporation and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds; however, any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States or their agencies or instrumentalities; however, the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as may be deemed necessary and appropriate;

(15) Provide technical, administrative, managerial and advisory services at any local government, industrial development authority, economic development entity, area development district and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program or activity; and

(16) Perform other and further acts as may be necessary to carry out the corporation functions and purposes as explicitly stated or implied by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) When the board of directors is not meeting or as otherwise provided by this Act, all powers and authorities granted to the corporation pursuant to this Act shall be vested in the corporation's executive committee, which shall be composed of the following members:

(a) The chairman of the board of directors and all other officers of the board as the board may specify in the corporation's bylaws;

(b) The three (3) gubernatorial appointees to the board as specified in Section 4 of this Act;

(c) Seven (7) locally elected officials represented on the board, four (4) of whom shall be county judge executives and three (3) of whom shall be mayors;

(d) Two (2) members who shall represent participating area development districts; and

(e) Seven (7) at-large members on the board, which may include, but not be limited to, persons representing banking and business, industrial, education, labor, private industry councils, chambers of commerce, industrial development authorities and the State Legislature; however, no more than two (2) at-large members shall be elected officials.

(2) The executive committee shall be authorized to hire and fire the corporation's executive director and to set his salary and benefits and to authorize the hiring of other employees of the corporation and to set their respective salaries and benefits;

(3) No funds of the corporation shall be obligated or expended until their obligation and expenditure has been authorized by the executive committee.

(4) The executive committee shall meet at least once each quarter and at such other times as the chairman may call. All meetings of the executive committee shall be open to the general public and a written record of all proceedings and transactions shall be maintained and available for public inspection. A simple majority of the total membership of the executive committee shall constitute a quorum. It shall be necessary for a properly constituted quorum to be present before transacting any official business except that a quorum need not be present for adjournment.

(5) A simple majority of the total membership of the executive committee, excluding any vacancy, shall be required before the committee may borrow funds to make loans, enter into contracts or agreements, issue and sell bonds on behalf of the corporation and hire an executive director or any other persons as consultants or employees, and obligate, transfer or otherwise encumber or dispose of the corporation's funds or assets.

(6) The executive committee shall not be authorized to amend the bylaws, articles of agreement or other rules adopted by the board.

(7) When any member of the executive committee is absent without excuse from three (3) or more consecutive committee meetings, he shall be automatically removed from the committee and his position on the committee shall be declared vacant and shall be filled in the manner as provided in this Act for the membership classification which the vacancy represents.

(8) The day-to-day administration and management of the corporation shall be invested in the corporation's executive director, who shall have powers, duties and authorities as may be granted to him by the board and the executive committee.

(9) Members of the executive committee may be reimbursed for their actual travel expenses while on official corporation business in accordance with the methods for reimbursement as established by the board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

The corporation shall be authorized to borrow money and to issue bonds to carry out the corporation's purposes and functions. All bonds issued by the corporation shall be in the manner as prescribed by KRS 65.270; however, the corporation may issue bonds bearing interest rates not to exceed the market rate at the time of issue, KRS 65.270(3) and (6) notwithstanding.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) There is created and established a loan fund to be known as the East Kentucky Economic Development Fund to be administered by the corporation as a trust fund separate and distinct from all other moneys, funds and assets administered by the corporation.

(2) The East Kentucky Economic Development Fund shall be comprised of and the corporation is hereby authorized to receive and accept for this fund the proceeds of grants, contributions, state appropriations, repayment of loans made from the funds and any other moneys which may be made available to the corporation for the purposes of the fund from any other source.

(3) The purpose of this fund is to provide a source from which the corporation may make loans, grants and investments and the corporation is authorized to make loans, grants and investments from this fund at such interest rates and for such terms as may be determined by the corporation's executive committee, with security for repayment as the executive committee deems necessary and reasonable.

(4) The proceeds of any loan shall be used solely for the purposes for which the loan is made as provided in the loan agreement; however, no moneys from this fund shall be used to carry on propaganda or otherwise used to influence legislation.

(5) Any loan made from this fund shall be consistent with and supportive of the corporation's strategic planning initiatives.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Nothing contained in this Act shall be construed or interpreted as precluding the corporation from jointly participating with any person in the funding of any project within the region.

(2) Nothing contained in this Act shall be construed or interpreted as authorizing the corporation to engage in the business of banking.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Obligations issued under the provisions of this Act shall not be deemed to constitute a debt, liability or obligation of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but shall be payable solely from the revenues or assets of the corporation. Each obligation issued under this Act shall contain on the face thereof a statement to the effect that the corporation shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

(2) Expenses incurred by the corporation in carrying out the provisions of this Act may be made payable from funds provided pursuant to this Act and no liability shall be incurred by the corporation hereunder beyond the extent to which moneys shall have been so provided.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any of the provisions of this Act or any recitals in any obligations issued under the provisions of this Act, all obligations and interest coupons appertaining thereto shall be and are hereby made negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Obligations issued under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds, notes or obligations of the state is now or may hereafter be authorized by law.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

No member or other officer of the corporation shall be subject to any personal liability or accountability by reason of his execution of any obligations or the issuance thereof.

SECTION 15. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

The corporation has been duly created as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky. Accordingly, the corporation shall not be required to pay any taxes and assessments to the Commonwealth of Kentucky, or any county, municipality or other governmental subdivision of the Commonwealth of Kentucky, upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this Act, or upon any moneys, funds, revenues or other income held or received by the corporation and the notes and bonds of the corporation and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers; provided, however, that real property owned by the corporation shall be exempt from all property taxation and special assessments of the state or political subdivisions thereof, but the corporation may agree to pay, in lieu of such taxes, such amounts as the corporation finds consistent with the cost to the state or political subdivision of supplying municipal services to the properties.

SECTION 16. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

If any member, officer or employee of the corporation shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the corporation, including any loan to any sponsor, builder or developer, the interest shall be disclosed to the corporation and shall be set forth in the minutes of the corporation, and the member, officer or employee having an interest therein shall not participate on behalf of the corporation in the authorization of the contract.

SECTION 17. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Upon termination or dissolution, all rights and properties of the corporation shall pass to and be vested in the Commonwealth of Kentucky, subject to the rights of lienholders and other creditors, unless the board or executive committee directs at such times that they be distributed among one or more corporations, trusts, community chests, funds or foundations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder, member or individual and no substantial part of whose activities consists of carrying on propaganda, or otherwise attempting to influence legislation.

SECTION 18. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor, the General Assembly and every local government represented on the board. Such reports shall set forth a complete operating and financial statement of the corporation during the year. The corporation also shall cause an annual audit to be made by a independent certified public accountant of its books, accounts, and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations. Copies of the audit shall be distributed to all members of the board, the Governor and the Kentucky Legislative Research Commission and shall be made generally available to the public for inspection.

SECTION 19. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Sections 1 through 18 of this Act may be cited as the "East Kentucky Economic Development and Jobs Creation Corporation Act."

Section 20. Whereas Section 2 of this Act provides for the appointment of an interim board of directors by the Governor in order to expedite the legal and administrative requirements necessary to the establishment, organization and financing of the East Kentucky Economic Development and Jobs Creation Corporation and the appointment of a permanent board of directors, officers and executive committee of the corporation on or before August 1, 1990, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 419, AN ACT relating to water supply planning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.110 is amended to read as follows:

The conservation, development and proper use of the water resources of the Commonwealth of Kentucky have become of vital importance as a result of population expansion and concentration, industrial growth, technological advances and an ever increasing demand for water for varied ***domestic,*** industrial, municipal and recreational uses. It is recognized by the General Assembly that excessive rainfall during certain seasons of the year causes damage from overflowing streams. However, prolonged droughts at other seasons curtail industrial, municipal, agricultural and recreational uses of water and seriously threaten the continued growth and economic well-being of the Commonwealth. The advancement of the safety, happiness and welfare of the people and the protection of property require that the power inherent in the people be utilized to promote and to regulate the conservation, development and most beneficial use of the water resources. It is hereby declared that the general welfare requires that the water resources of the Commonwealth be put to the beneficial use to the fullest extent of which they are capable, that the waste or nonbeneficial use of water be prevented, and that the conservation and beneficial use of water be exercised in the interest of the people. Therefore, it is declared the policy of the Commonwealth to actively encourage and to provide financial, technical or other support for projects that will control and store our water resources in order that the continued growth and development of the Commonwealth might be assured. To that end, it is declared to be the purpose of KRS Chapters 146, 149, 151, 224, 262 and KRS 350.029 and 433.750 to 433.757 for the Commonwealth to permit, regulate, and participate in the construction or financing of facilities to store surplus surface water for future use; to conserve and develop the ground water resources of the Commonwealth; ***to require local communities to develop long range water supply plans;*** to protect the rights of all persons equitably and reasonably interested in the use and availability of water; to prohibit the pollution of water resources and to maintain the normal flow of all streams so that the proper quantity and quality of water will be available at all times to the people of the Commonwealth; to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe droughts or times of emergency; to prevent harmful overflows and flooding; to regulate the construction, maintenance and operation of all dams and other barriers of streams; to prevent the obstruction of streams and floodways by the dumping of substances therein; to keep accurate records on the amount of water withdrawal from streams and watercourses and reasonably regulate the amount of withdrawal of public water; and to engage in other activities as may be necessary to conserve and develop the water resources of the Commonwealth of Kentucky***, and to ensure adequate supply of water for domestic, agricultural, recreational and economic development uses.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall administer a program for the purpose of developing long range water supply plans for each county and its municipalities or for a region composed of more than one (1) county. The plans to be developed shall include an assessment of the existing public and private water resources, both surface and groundwater, of the study area, an examination of present water use in the area, projections of future water requirements, and a determination of possible alternative approaches that can be taken in order to meet future water supply needs.

(2) The plans may be developed by area development districts in conjunction with the counties within each district. A county and its municipalities may require that the plan be developed for its jurisdictional area only or, if there is agreement between two (2) or more counties, that the plan be developed jointly with other counties.

(3) The plans shall be subject to approval by the cabinet. The cabinet is authorized to approve any water supply plan developed outside of this program which meets the guidelines set out in this Act and the criteria established by cabinet regulations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate regulations to carry out the program and shall consult with the Economic Development Cabinet in developing those regulations. The regulations shall set out the details which are to be included in the water supply plans, the procedure for counties and their municipalities to apply for financial assistance to pay for the plans, and the criteria and process by which the cabinet will approve plans. The cabinet shall assemble all information in a uniform data base available to all agencies and concerned entities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet, in conjunction with a county and its municipalities, shall finance the development of the water supply plans and encourage multi-county cooperation. The county and its municipalities shall pay up to twenty (20) percent of the total cost of plan development. A county and its municipalities shall be given credit toward its share of the plan's cost for in-kind services performed.

(2) The financial assistance of the cabinet shall be available until July 15, 1996.

(3) After July 15, 1996, the full cost of water supply plan development will be the responsibility of any county and its municipalities which has not had a plan approved by the cabinet.

(4) After July 15, 1998, the cabinet shall not endorse projects that impact water under the Kentucky intergovernmental review process for any county and its municipalities which does not have an approved water supply plan.

HJR 105, A JOINT RESOLUTION pledging to support the programs and incentives pledged by the state to General Tire, Inc. in return for General Tire's commitment to modernize its tire manufacturing plant in Mayfield, Graves County, Kentucky and to retrain its labor force at this facility.

WHEREAS, General Tire has determined that, due to technological and market changes, the company's Mayfield plant is not as competitive as it once was and that the facility must be substantially modernized, reequipped and retooled if it is to become competitive in today's global economy; and

WHEREAS, General Tire has committed to invest approximately $125,000,000 to modernize, restructure and retool the Mayfield plant; and

WHEREAS, following modernization a substantial portion of General Tire's labor force will require intensive retraining in connection with new and retooled equipment and new production procedures which will be implemented; and

WHEREAS, the decision of General Tire to modernize its facility and retrain its labor force in Mayfield, and therefore to maintain its production operations in Kentucky, is critical to the economy of western Kentucky and is a significant contribution to the continued economic well-being of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. As soon as practicable during the 1990 Session, after the passage of this resolution approving the General Tire project, the General Assembly shall appropriate and authorize the expenditure of funds for the 1989-90, 1990-91 and 1991-92 fiscal years, necessary to develop and maintain the programs and incentives pledged to General Tire in return for the company's commitment to the economic development of the Commonwealth as described in the preamble of this resolution.

Section 2. Recognizing that the General Assembly may not commit funds beyond the fiscal year ending June 30, 1992, the General Assembly endorses and commends the General Tire project to future General Assemblies, and strongly urges future General Assemblies to appropriate additional funds necessary to satisfy in full the programs and incentives pledged to General Tire.

Motions, Petitions and Communications (Continued)

Representative Callahan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that his vote be changed from "nay" to "yea" on **SB 53**. Agreed.

Representative Lewis moved that the rules be suspended to withdraw **HB 574**. Agreed.

Representative P. Richardson moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Richardson moved that he be recorded as voting "yea" on **HCR 75**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 14**, **HB 43**, **HB 311**, **SB 53**, **SB 54**, **SB 56** and **SB 59**. Agreed.

Representative Gray moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "yea" on adjournment, February 13, 1990. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to **HB 53**, by Representative J. Harper:

Amend printed copy of **HB 53** on pages 1 and 2 by deleting everything after the TITLE and inserting in lieu thereof the following:

"WHEREAS, health insurance contracts are difficult to understand; and

WHEREAS, some persons assume their health insurance policies provide certain minimum coverages only to find out otherwise upon filing a claim; and

WHEREAS, health insurance is both necessary and expensive and a person who purchases coverage should do so confident that it provides certain minimum benefits; and

WHEREAS, some health insurance contracts provide benefits of little or no value because the coverage is less than the minimum standards of care and treatment offered by health care providers;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission shall study the feasibility of, and the necessity for, requiring the commissioner of the Department of Insurance to establish minimum standards for insurance contracts providing health benefits. The study should focus on, but is not restricted to, the need for minimum standards which:

(a) Establish specific standards for contract provisions;

(b) Establish minimum standards for benefits;

(c) Prohibit contract provisions which the commissioner determines to be unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage; and

(d) Prohibit contract provisions that provide benefits which are of little or no value because the coverage provided is for care and treatment which is less than the minimum standards of care and treatment offered by health care providers in Kentucky.

Section 2. This report shall be submitted to the Kentucky General Assembly no later than September 1, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.".

Floor Amendment No. 1 to the Committee Substitute to **HB 132**, by Representative B. Smith:

Amend printed copy of HCS for **HB 132** on page 5, line 26, after the word "***shipped***" insert the following:

"***; or in the case of a person registered to sell motor fuels at more than one (1) location, the bills of lading or invoices may be retained at a central location but they shall be provided to an inspector within five (5) days after being requested***"; and

On page 6, line 1, by deleting "***at the location***" and inserting in lieu thereof "***by the registered person***".

Floor Amendment No. 1 to **HB 373**, by Representative Stumbo:

Amend printed copy of **HB 373** on page 1, before line 1, insert the following language:

"Section 1. KRS 337.365 is amended to read as follows:

(1) No employer shall require any employee to work without a rest period of at least ten (10) minutes during each four (4) hours worked, except [~~those~~] employees who are under the Federal Railway Labor Act ***and employees who are engaged in sedentary retail merchandizing of gasoline and petroleum products***. This shall be in addition to the regularly scheduled lunch period. No reduction in compensation shall be made for hourly or salaried employees.

(2) For purposes of this section, "sedentary retail merchandizing" means work performed in a retail merchandizing establishment and in a seated position for eighty-five percent (85%) or more of the workday."

And, renumber the subsequent section accordingly.

Floor Amendment No. 1 to **HB 317**, by Representative Rapier:

Amend printed copy of **HB 317** on page 2, line 3, by placing brackets around and striking through the word "tag".

On page 2, line 20, after the "." by inserting the following language: "***It shall be deemed a violation of this section if the motor vehicle is driven in excess of nine (9) months while bearing any plate issued to the owning dealer.***"

On page 3, line 5, after the "." by inserting the following language: "***The operator of a vehicle in transit and which is being operated on a transit tag shall either be registered with the county clerk in compliance with subsection (2)(a) of this section or have been issued a permit in compliance with subsection (2)(c) of this section.***"

On page 3, line 16, after the word "firm" by inserting the following language: "***or when additional bona fide salesmen or employees are hired***".

On page 4, line 7, after the word "authorized" by placing brackets around and striking through the ",".

On page 4, line 15, after the number "(3)" by inserting the letter "***(a)***".

On page 4, line 20, after the "." by inserting the following language: "***In addition, a dealer or manufacturer who is found in violation of this section may neither apply for nor receive any dealer plates which would cause him to exceed the number of dealer plates less one (1) that he had in effect on the date of the violation.***"

On page 5, line 4, after the "." by inserting the following language: "***(b) Any person who is determined by the motor vehicle commission to have violated any provision of this section shall have an administrative fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) imposed by the motor vehicle commission. The motor vehicle commission shall not probate the fine imposed.***"

Floor Amendment No. 2 to **HB 182**, by Representative Donnermeyer:

Amend printed copy of **HB 182** on page 1, lines 1 through 21, to delete the same and to insert in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

Any other statute to the contrary notwithstanding, a suit against a consumer debtor may also be filed in any county where the contract was signed or in which services were rendered regardless of the defendant's current county of residence or the plaintiff's location."; and

On pages 2 through 4, lines 1 through 26, to delete the same; and

On page 5, lines 1 through 9, to delete the same.

Floor Amendment No. 4 to the Committee Substitute to **HB 339**, by Representative Bronger:

Amend printed copy of HCS to **HB 339** on page 9, after line 18, by deleting lines 19-26;

On page 10, lines 1-26, by deleting same;

On page 11, lines 1-26, by deleting same;

On page 12, lines 1-18, by deleting same; and

Renumbering subsequent sections accordingly.

Floor Title Amendment to **HB 232**, by Representative Lewis:

Amend printed copy of **HB 232** by amending the title to read as follows: "AN ACT relating to sick leave credit."

Floor Amendment No. 1 to the Committee Substitute to **HB 232**, by Representative Lewis:

Amend printed copy of HCS to **HB 232** on page 2, after line 17 by adding the following:

"Section 2. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents, grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick [-]leave bank" shall mean an aggregation of sick [-]leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick [-]leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education ***or transfers from the Department of Education to a school district*** after June 30, 1985.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick [-]leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick [-]leave bank. ***The*** [~~Such~~] plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick [-]leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) A teacher may use up to thirty (30) days of sick leave following the adoption of a child or children.

(8) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick [-]leave day. The rate of compensation for each unused sick [-]leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick [-]leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick [-]leave payment. The accumulation of ***these*** [~~such~~] days includes unused sick [-]leave days held by the employee or teacher at the time of implementation of ***the*** [~~such a~~] program.

(9) Any statute to the contrary notwithstanding, employees ***and teachers*** who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee ***or teacher*** was entitled on the date of transfer. ***This*** [~~Such~~] credit shall be for the purposes set forth in KRS 161.155***(8)***[~~(7)~~].".

Floor Amendment No. 1 to **SB 60**, by Representative Northup:

Amend printed copy of GA copy of **SB 60** on page 2, after line 23, by adding the following two sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

An employee who is receiving income benefits for total disability under this chapter shall report wages earned by him to the party from whom income benefits are being received. Wages shall be reported not less often than quarterly and in the manner prescribed in administrative regulations promulgated by the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

An employee who violates the provisions of section 2 of this Act shall be assessed a civil penalty of not less than one hundred dollars ($100) but not more than one thousand dollars ($1,000)."

Floor Amendment No. 1 to the Committee Substitute to **HB 241**, by Representative Farrow:

Amend printed copy of **HB 241/HCS** on page 1, line 14, by adding after the word "***appointment***" the words: "***. Any deputy sheriff appointed pursuant to this section who has not been a resident of the county for a period of at least two (2) years shall not be an active participant in any labor dispute and shall immediately forfeit his position if he violates this provision***".

Floor Amendment No. 1 to **HB 472**, by Representative Donnermeyer:

Amend printed copy of **HB 472** on page 4, after line 13, by adding the following:

Section 2. KRS 242.185 is amended to read as follows:

(1) This section shall apply to any city of the fourth class ***or county containing a city of the fourth class*** in which prohibition is not in effect, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.

(2) Upon a determination by the legislative body that an economic hardship exists within the city ***or county*** and that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns, [~~or~~] restaurants ***or convention centers*** for the sale of alcoholic beverages by the drink for consumption on the premises.

(3) Licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons ***or convention centers.***

(4) The city ***or county*** legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable ***administrative*** [~~rules or~~] regulations as may be necessary for the enforcement or administration of this section, provided that any [~~rules or~~] regulation adopted shall conform to the requirements of KRS 241.190.

(5) Notwithstanding any limitations imposed on the city's ***or county's*** taxing or licensing power by KRS 243.070, the city ***or county*** may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city ***or county*** for the estimated costs for any additional policing, regulatory or administrative

related expenses. Such regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to any licenses or fees imposed by the city ***or county*** pursuant to KRS 243.070.

Section 3. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second, third or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second, third or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second, third or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and subsections (2), (4) and (6) of this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (4) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first or second class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food.

(5) (a) Any hotel, motel, restaurant operation, convention center or commercial airport which sells liquor on Sunday shall pay each of its employees wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)6. notwithstanding.

(b) No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

(6) Any city of the fourth class ***or county containing a city of the fourth class*** which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink as provided in KRS 242.185(1), may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by subsections (2) and (4) of this section. Such special licenses shall only be issued to those hotels, motels, inns or restaurants authorized to sell alcoholic beverages by the drink as provided in KRS 242.185(3). Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

Section 4. KRS 243.230 is amended to read as follows:

(1) Licenses to sell distilled spirits and wine by the drink for consumption on the premises may be issued only for premises located within cities of the first, second or third class, or elsewhere in counties containing a city of the first, second or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(2) Notwithstanding any other provision of law, a special license to sell distilled spirits and wine by the drink for consumption on the premises may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held pursuant to KRS 242.127 and 242.129 were in favor of the proposition voted upon provided the city has an adequate police force under KRS 95.710 and 95.740 to 95.787.

(3) Licenses to sell distilled spirits or wine by the package may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second, ***or*** third [~~or fourth~~] class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(4) Notwithstanding subsection (3) of this section, the board may, after a field investigation, issue a license to sell distilled spirits and wine by the package at premises not located within any city if ***substantial aggregations of population would otherwise not have reasonable access to a licensed vendor and*** the premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, if such premises are licensed to sell malt beverages at retail and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.

(5) No retail package or drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

The Clerk announced the following meetings:

The Committee on Education at 10:00 a.m., February 15, 1990.

The Budget Review Subcommittee on Economic Development and Tourism at 8:00 a.m., February 15, 1990.

Recess

Representative Stumbo moved that the House recess until the hour of 7:00 p.m., Wednesday, February 14, 1990.

On the roll call the vote was yeas 68—Adkins, Allen, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bronger, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gray, Hancock, J. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lewis, Little, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, NNoland, Northup, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, Stokes, Stumbo, Todd, Ward, White, Worthington, Yates. Nays 2—Blevins, Heleringer.

The motion that the House recess until the hour of 7:00 p.m. Wednesday, February 14, 1990 was adopted.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Representative Stumbo moved that floor privileges be granted to constitutional officers and invited guests. Agreed.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Prayer by Dr. Edward Mesta, First Presbyterian Church, Winchester.

Representative Stumbo introduced the President Pro Tempore of the Senate.

Senator John "Eck" Rose, President Pro Tempore of the Senate, addressed the General Assembly as follows:

THE STATE OF THE LEGISLATURE ADDRESS

Governor Wilkinson, Lt. Governor Jones, Speaker Blandford, Chief Justice Stephens, members of the General Assembly, ladies and gentlemen, thank you for coming this evening.

We've gathered here tonight for our first State of the Legislature message to the people of this Commonwealth, it is a joint statement by Speaker Blandford and myself as the elected leaders of our respective chambers.

It is not our intention to speak for the entire membership of this General Assembly. Nor is this an attempt to make the Legislature speak with one voice. That would be presumptuous — even impossible — for it would deny the diversity of opinion central to representative government. And the General Assembly is a representative institution, drawn by the framers of our Constitution as a deliberative body, with all members being of equal status, and possessed of an equal vote, in representing their unique constituencies. Each member comes to these chambers of free deliberation with a mandate from the folks back home. And that's important to remember.

We are all sent here by our neighbors — and they've placed in us their trust and their confidence. They understand the nature of our task: to see to local concerns and needs, of course; but also to deal in a collective manner with the great challenges confronting the future of our Commonwealth.

Resolving those challenges toward the greater good of all is the heaviest of responsibilities, but a fundamental one in our system.

In that sense, every member of the General Assembly has fully realized his or her responsibilities when a consensus is reached based on the collective knowledge, wisdom and experience of all. Understanding the need for such consensus means we understand the workings of government in a free society.

It is a responsibility each of us takes seriously. We recognize that no one of us can hope to solve the problems that face us. But collectively — using every means available to build a true consensus — we can in fact prevail for the common good.

It is our common resolve that government by consensus — as envisioned by the framers of our Federal and State Constitutions — best serves the people of a free society. In that resolve — and in that resolve only — we are uncompromising.

Our individual hopes and aspirations and ambitions pale before the pressing needs of this Commonwealth. Meeting those needs requires that the process of consensus be implemented through this institution, the Kentucky General Assembly.

The General Assembly is truly the people's branch of government.

And to the people of Kentucky I say: It is your branch of government, for it is membered by your neighbors. Neighbors with whom you live and work. Neighbors with whom you attend church and various community clubs. Neighbors whose children go to the same schools as yours. Neighbors who shop alongside you for groceries. Neighbors with whom you have easy and direct contact, and know by their first names.

Neighbors you have entrusted with this message: "Go to Frankfort, understanding the issues and represent us, but put this Commonwealth first."

Speaker Blandford and I wish to use this forum tonight to assure all of our citizens that is exactly what the General Assembly, by way of consensus, means to do: put this Commonwealth first.

In putting the Commonwealth first, we must bear in mind that while we have much in common, we also are a diverse people, from distinct geographic regions. The needs of those regions must be attended to if we are to have a healthy whole. In our work, we mold and shape regional concerns, and fit them into the broader puzzle of the overall needs of this Commonwealth.

It is through this spirit of compromise and cooperation that the greater future of this Commonwealth can be assured, and I say tonight: that spirit shall prevail.

But while that spirit prevails within these chambers, we are aware it must also prevail between the branches of government, if the Commonwealth is to be placed first on our common agenda.

Two years ago, in a speech I delivered toward the end of the 1988 Session, I spoke of my desire to cooperate with all to achieve a better quality of life for those we are privileged to serve. Tonight, Speaker Blandford and I want to reaffirm the spirit of that speech.

We — along with what we believe to be the vast majority of members of the General Assembly — seek simple and necessary cooperation, to ensure that the challenges of this session are met and resolved to the common good.

Having said all this, what can our citizens expect from the 1990 General Assembly? What is our common agenda?

It would be presumptuous of Speaker Blandford or me to attempt to set the agenda for all our members. But what we can present are some basic priorities for the members of our respective chambers. . priorities we hope to see adopted into law through the art of cooperation, consensus-building and a rational, unemotional exchange of ideas tempered with mutual respect.

With Speaker Blandford as my partner in this endeavor, let me then outline briefly some of those items we hope the membership will consider favorably.

The Kentucky Supreme Court last June ruled our common school system to be unconstitutional. That ruling went far beyond the initial relief sought, which was simply more money for poorer districts. And while the court has in effect mandated spending large sums of additional revenue for educational improvements, it has also given us an unparalleled opportunity to build a common school system that can truly put the Commonwealth first in education.

The General Assembly's initial response was to establish a Task Force on Education Reform, in whose work the Executive Branch was invited to participate. That Task Force has been working diligently to provide recommendations for the General Assembly. Those recommendations, it is hoped, will be finalized in the next two weeks. At the time Speaker Blandford and I, as Co-Chairs of the Task Force, will report to the members in Joint Session on what those proposals are.

We want to emphasize that, to date, the development of these recommendations has been a joint effort of the executive and legislative branches.

No greater challenge faces this Commonwealth than reforming our educational system, and paying for it. And that reformation cannot be considered complete until we recognize as well the very real needs of early childhood education, higher education, adult education, and vocational education. In any plan we agree to, those areas must be addressed.

The Governor has shown his support by coming forth with a proposal to increase taxes by more than one million dollars over the biennium, and is to be commended for doing so.

Those revenue-raising proposals are now under study. And while we do now know what the final determination will be, we do find ourselves — both the Governor and the Legislature — in general agreement that taxes are needed. By our best reading, the public also agrees. The only decision will be which taxes are affected.

We suggest this is one of the many areas where reasonable men and women may disagree while respecting one another's right to differ.

There has been no major, general tax increase in this state since 1968. In fact, over the past twenty years, broad-based state taxes have been repeatly cut. In that period, to compensate, we have cut state government budgets across the board, shifted monies from one fund to another to try to meet demands, and trimmed fat until bone is laid bare.

We now face a reality whose demands can no longer be ignored, and whose challenge is clear. The need for new revenue to pay for not only education, but improved environmental protection, growing human service needs, and corrections reform, among others.

It is a challenge we are ready to meet.

As we prepare our children to compete in a global economy, we must preserve at home an environment conducive to keeping them in Kentucky. In short, our environment must be protected from further pollution and abuse.

The people of this Commonwealth expect the General Assembly to be leading stewards of our natural resources. Probably the most pressing environmental concern we now face is effective control of waste management. We do not believe that any Kentuckian wants Kentucky to become the dumping ground of this nation. We believe this is simply unacceptable and not to be tolerated.

The 1988 General Assembly took steps to correct this situation but more is required. We believe that Kentucky must have strong regulations for landfills. We believe that effective waste management requires strong state-local partnership. And we believe local governments must have the proper tools to enforce solid-waste management.

Most of all, we believe Kentucky landfills, to the extent the law allows, should be for Kentucky waste.

Committee studies last interim pointed up the fact that the Department for Environmental Protection is woefully underfunded. We will encourage support for funding to implement a comprehensive environmental management plan.

This is a fundamental need.

Another concern this General Assembly must deal with is the debt capacity of the Commonwealth, and proposals to radically expand that debt through bond issues.

States, like individuals, have credit ratings. Bonds represent long-term debt for the state. Last interim, we set up a special task force to study Kentucky's debt capacity, our aim is to prevent the state from incurring debt to the extent that it affects the credit and interest rates available to Kentucky state government.

A $600-million bond issue for roads has now been proposed. We all want good roads. The expedient approach would be to approve that bond issue. But we must take time to evaluate the impact of this increased debt on the long-term financial security of the Commonwealth.

As we all know, roads have too-often been tools for political deal-making throughout the history of Kentucky. This General Assembly will consider legislation to ensure continuity in the funding of road projects by requiring that a two-year state highway construction program — and a four-year pre-construction plan — be submitted to the General Assembly along with the biennial budget.

We consider this a way to not just eliminate past abuses, but to prevent future ones; and to implement a true construction and reconstruction plan that will give us a comprehensive handle on this most important issue.

We are also well aware of the problems in this state in the area of corrections. Put simply, we need, more prison beds, and it costs a lot of money to provide them. In this too, the executive has indicated an interest in working with us to find a solution. We're overcrowded, and we've got to do something about it.

This session we will.

I'd now like to read to you one of the findings in a report by the Committee on Human Resources of our Special Commission on State Government:

And I quote: "Based on our hearings and deliberations, it is the consensus of the committee that we are not meeting basic needs of the citizens of Kentucky and have no hope of doing so unless fundamental changes are made. . ."

That, we submit, is a frightening statement, and it is unacceptable.

There are pressing needs in areas such as community-based services for severely emotionally disturbed children, funding for the new Federal Family Support Act, expansion of the Kentucky Medical Assistance Program, and funding for juvenile residential-treatment beds.

There is also clearly an urgent need to expand in-home services for the elderly.

We are well aware, too, of the growing statewide concern that health care be accessible and affordable to all.

The Budget Review Subcommittee on Human Resources will carefully weigh the most pressing needs against available revenues, to address them in a real way this session.

One issue that directly affects each and every Kentuckian is economic development — the recruitment and retention of good, stable jobs for our fellow citizens who want to work, but cannot, who want better lives, but find their dreams frustrated.

Last year, the House and Senate established committees specifically to focus on economic development. Those committees began meeting as a Joint Economic Development Task Force, and conducted 17 on-site visits, hearing local and regional leaders express their concerns.

The Task Force also saw many local economic success stories and gathered information from 60 counties in four economic regions of this Commonwealth.

With each regional meeting, the Task Force became more aware of the principal requirements for making Kentucky's economy succeed.

Basically, we have come to see that teamwork — public and private sectors working together, labor and management laying aside mistrust — is crucial to a sound development policy; that no policy is a good one unless it is environmentally rational; and that economic development and education reform go hand in hand, for the workplace of tomorrow cannot function on the skills of the past.

But we've learned something else too, and it can't be overlooked.

The people of Kentucky have a deep determination to make their lives better. And government would be wise to tap that spirit.

No program of ours, no governmental good works, can hope to succeed unless the best energies of our people are engaged. That determination, that spirit, is evident and at work in virtually every community, workplace and school in Kentucky.

We must encourage it.

As we begin a new decade, and begin to focus on a new century, dealing with old problems or current problems alone is no longer acceptable.

We can't afford to get so caught up in today that we forget to plan for tomorrow. We cannot operate in a vacuum.

To accomplish that, we in the General Assembly have established a special study committee that is looking at ways to make state government better able to address the issues of the future and to respond to them, before they become insurmountable.

That is a legislative initiative. No one else in state government is making a similar, organized, formal attempt at planning for the future.

Among the issues we will look at in the coming months and years are:

—Establishing trade opportunities between Kentucky and eastern bloc countries.

—The effect on Kentucky of the closing of military bases as our country enters a new era of peace.

—How Kentucky should respond if acid rain legislation or other federal proposals are adopted that would significantly affect our state economy.

—Planning for population changes, particularly as they relate to the age and work patterns or our citizens.

My friends and fellow Kentuckians, these are enormous challenges.

Despite the great efficiencies of our year-round interim committee system, we must take steps to ensure that we as a body take a long-range perspective: That we show due concern for the great movements of our history and our society; that we not lose sight of our legacy in the hurried claims of immediacy.

Moreover, this perspective and this concern must be institutionalized, so the comings and goings of individuals in government will not require we reinvent the wheel every few years.

If you will allow, I would like to paraphrase some final thought from that speech I made last session. In these sentiments, Speaker Blandford and I concur.

Our Constitution says clearly that the powers of the government of the Commonwealth shall be divided into three distinct branches — the legislative, the executive, and the judicial. Each branch of government has its constitutional responsibilities, and none of the three may infringe upon the prerogatives of the others.

Lawmaking powers are vested solely in the House of Representatives and the Senate, which we and the Constitution call the General Assembly.

Thus was created this branch of government, and within it we are stewards of a great and enduring dream: a government of, for, and by the people.

We will continue to discharge our constitutional duties, and see that the branches of government remain separate but co-equal, as together we undertake through consensus the building of the future of our Commonwealth.

While we are mindful that each branch has its obligations upon which the others should not tread, we believe that there must be cooperation between the executive and the legislative. That cooperation can be the foundation upon which our common future will flourish. Through such cooperation, success is within our grasp—success in education, economic development, a better life for our elderly, a better day for all. Through our joint efforts, there is hope — and firm expectation — for victories over ignorance, illiteracy, poverty, and sickness.

The alternative to cooperation is constant confrontation, from which will flow failure and frustration, not just for us here in the Capitol, but for our people. That alternative is not acceptable to reasonable men and women of goodwill in any part of this Commonwealth and it is not acceptable to the Kentucky General Assembly.

So, Governor, tonight we extend our hands in a spirit of friendship and cooperation, and with a firm belief that together we can and will dedicate our joint efforts towards putting this Commonwealth first.

Finally, on behalf of Speaker Blandford and myself, let me say to the membership of the House and Senate, and to all the people of the Commonwealth: we appreciate deeply the trust you have placed in us, and thank you for the opportunity you've given us to serve.

Thank you. . .and good night.

Representative Stumbo moved that the Joint Session be dissolved. Agreed.

The Speaker resumed the Chair and called the House to Order.

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 15, 1990. Agreed.

The motion that the House adjourn until 2:00 p.m., Thursday, February 15, 1990 was adopted by voice vote.

THURSDAY, FEBRUARY 15, 1990

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Jerry Hopkins, Reidland Baptist Church, Reidland.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Butler, K. Harper and Noe.

Representative Overstreet moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Overstreet moved that the reading of the Journal of February 14, 1990 be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 21** and **HB 60** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:04 p.m.)

HB 21 and **HB 60** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 608, by Representatives Mullinix, Allen, Lyne, Layman, Altman, Strong, Bruce, Gedling, White and Ford: AN ACT relating to deposits for water service.

HB 609, by Representative Blevins: AN ACT relating to consumer protection.

HB 610, by Representatives A. Jones, Morris, Gray and Hatcher: AN ACT relating to small business development and declaring an emergency.

HB 611, by Representatives Gedling and Little: AN ACT relating to sheriffs.

HB 612, by Representative Geveden: AN ACT relating to higher education.

HR 130, by Representative Stumbo: A RESOLUTION adjourning in memory and honor of Charlie Butler.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 216**.

Appropriations and Revenue: **HB 604**.

Banking and Insurance: **HB 605**.

Cities: **SB 198**, **SB 213**, **SB 214**.

Economic Development and Tourism: **HB 599**, **HCR 125**, **HCR 127**, **HCR 128**.

Education: **HB 606**.

Health and Welfare: **HCR 122**, **HJR 124**.

Judiciary: **HB 600**, **HB 601**, **HB 602**, **HJR 123**.

Labor and Industry: **HCR 126**.

Natural Resources and Environmental Protection: **SB 155**.

State Government: **HB 603**, **HB 607**, **HCR 129**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 557, HB 584, HB 590, SB 175.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 40** and **HB 434** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 40, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of giving a peace officer a false name or address when he gives a false name or address to a peace officer who has asked for the same in the lawful discharge of his official duties with the intent to mislead the officer as to his identity.

(2) Giving a peace officer a false name or address is a Class B misdemeanor.

HB 434, AN ACT relating to cosmetologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.030 is amended to read as follows:

(1) There is created an independent agency of the state government to be known as the Kentucky Board of Hairdressers and Cosmetologists, hereinafter referred to as the "cosmetology board," which shall have complete supervision over the administration of the provisions of this chapter relating to cosmetology, cosmetologists, schools of cosmetology, students enrolled in cosmetology, apprentice cosmetologists, manicurists, teachers of cosmetology, and cosmetology salons;

(2) The cosmetology board shall be composed of five (5) members appointed by the Governor:

(a) Four (4) of the members shall have been cosmetologists five (5) years prior to their appointment and residents of Kentucky;

(b) Two (2) of whom shall be cosmetology salon owners;

(c) One (1) of whom shall be a cosmetology teacher in public education and shall not own any interest in a cosmetology salon;

(d) One (1) of whom shall be an owner of or one (1) who has a financial interest in a licensed cosmetology school and a member of a nationally recognized association of hairdressers and cosmetologists;

(e) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated; and

(f) None of whom nor the administrator shall be financially interested in, or have any financial connection with wholesale cosmetic supply or equipment businesses.

At all times in the filling of vacancies of membership on the board this balance of representation shall be maintained.

(3) Upon expiration of a term of any member, the appointment shall be for a term of two (2) years;

(4) The Governor shall not remove any member of the board except for cause;

(5) The board shall elect from its members one (1) to serve as chairman, one (1) as vice-chairman, and a third to serve as secretary;

(6) Three (3) members shall constitute a quorum for the transaction of any business of the board;

(7) Each member of the board shall receive a compensation of ***one hundred*** [~~fifty~~] dollars ***($100)*** [~~($50)~~] per day for each day of attendance at meetings of the board, and shall be reimbursed for necessary traveling expenses;

(8) The board shall hold [~~such~~] meetings at ***the*** [~~such~~] place in the state and at ***the*** [~~such~~] times [~~as are~~] deemed necessary by the board to discharge its duties.

The Committee on Business Organizations and Professions reported **HB 115** with Committee Substitute attached thereto, **HB 297** with Committee Amendment attached thereto, and **HB 473** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 115, AN ACT relating to alcoholic beverage control and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The positions of alcoholic beverage control investigator, alcoholic beverage control field representative, alcoholic beverage control agent, and alcoholic beverage control officer shall be considered as hazardous duty positions within the meaning of Section 2 of this Act. The department shall make the employer contributions for participation in the hazardous duty retirement program as required by KRS Chapter 61.

Section 2. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the ***positions*** [~~position~~] of probation and parole officer***, alcoholic beverage control investigator, control field representative, control agent, and control officer***), active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. ***This*** [~~Such~~] rate ***shall*** [~~will~~] be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) ***If*** [~~In the event~~] the employer participated in the system prior to electing hazardous duty coverage, then ***the*** [~~said~~] employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employee may make the lump sum payment in his own behalf. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the Distilled Spirits Unit, the fees for which shall be:

(1)	Distiller's license, per annum	$1,500.00
(2)	Rectifier's license, per annum	$1,500.00
(3)	Blender's license, per annum	$1,500.00
(4)	Vintner's license, per annum	$ 500.00
(5)	Small winery license, per annum	$ 250.00
(6)	Wholesaler's license, per annum	$1,500.00
(7)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$ 600.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(e)	In all other counties	$ 200.00
(8)	Retail drink license, per annum:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(9)	Transporter's license, per annum	$ ***100***[~~25~~].00
(10)	Dining car license, per annum	$ 50.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12)	Special industrial alcohol license, per annum	$ 25.00
(13)	Special nonindustrial alcohol license, per annum	$ 25.00
(14)	Special agent's or solicitor's license, per annum	$ ***50***[~~20~~].00
(15)	Special storage or warehouse license, per annum	$ 100.00
(16)	Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).	
(17)	Special private club license, per annum	$ ***250***[~~150~~].00
(18)	Special Sunday retail drink license	$ 300.00
(19)	Nonresident, special agent or solicitor's license, per annum	$ ***50***[~~20~~].00
(20)	Transport permit, nonresident license, per annum	$ ***100***[~~25~~].00
(21)	Through transporter's license, per annum	$ ***100***[~~25~~].00
(22)	Freight forwarder's license, per annum	$ ***100***[~~25~~].00
(23)	Supplemental bar license:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00

(c) In counties containing cities of the third class . . . . $ 400.00

(24) Restaurant wine license, per annum:

(a) New applicants . . . . $ 300.00

(b) Renewals . . . . $ 200.00

(25) ***Any*** [~~Such~~] other special license ***that*** [~~as~~] the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

(26) In the fiscal year beginning July 1, 1990, the board may use up to seventy-five percent (75%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act. Thereafter, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

Section 4. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the Malt Beverages Unit, the fees for which shall be:

(1) Brewer's license, per annum $1,500.00

(2) Microbrewery license, per annum . . . . $ 250.00

(3) Distributor's license, per annum . . . . $ 200.00

(4) Retailer's license per annum[~~:~~]

[~~(a)~~ ~~New applicants~~] . . . . $ 200.00

[~~(b)~~ ~~Renewals~~ . . . . ~~$ 75.00~~]

(5) Dining car license, per annum . . . . $ 100.00

(6) Transporter's license, per annum . . . . $ ***100***[~~25~~].00

(7) Special temporary license, per month or part of month . . . . $ ***25.00***[~~12.50~~]

(8) Special off-premises storage license, per annum . . . . $ ***100***[~~25~~].00

(9) Distributor's storage, per annum . . . . $ 50.00

(10) Special beer transporter's license, per annum . . . . $ 100[~~25~~].00

(11) ***Any*** [~~Such~~] other special licenses ***that*** [~~as~~] the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection (11) may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

(12) In the fiscal year beginning July 1, 1990, the board may use up to seventy-five percent (75%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act. Thereafter, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

Section 5. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. ***In this case***[; ~~Provided~~], however, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers,

rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, ***four hundred dollars ($400)*** [~~one hundred dollars ($100)~~] per day; ***any license which by its terms authorize the sale of liquor by the drink, fifty dollars ($50)*** [~~retail drink liquor licensees, twenty-five dollars ($25.00)~~] per day; retail package liquor licensees, ***fifty dollars ($50)*** [~~twenty-five dollars ($25.00)~~] per day; retail beer licensees, ***twenty-five ($25.00)*** [~~ten dollars ($10.00)~~] per day; all remaining licensees, ten dollars ($10.00) per day.

(2) Payments in lieu of suspension collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

Section 6. Whereas, distilled spirits, wine, and malt beverage licenses are granted at the beginning of the fiscal year, an emergency is declared to exist and this Act shall become effective July 1, 1990.

The Committee Substitute to **HB 115** is as follows:

HB 115, AN ACT relating to alcoholic beverage control and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The positions of alcoholic beverage control investigator, alcoholic beverage control field representative, alcoholic beverage control agent, and alcoholic beverage control officer shall be considered as hazardous duty positions within the meaning of Section 2 of this Act. The department shall make the employer contributions for participation in the hazardous duty retirement program as required by KRS Chapter 61.

Section 2. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, [~~(~~]including the ***positions*** [~~position~~] of probation and parole officer***, alcoholic beverage control investigator, control field representative, control agent, and control officer***[~~)~~], active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. ***This*** [~~Such~~] rate ***shall*** [~~will~~] be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) ***If*** [~~In the event~~] the employer participated in the system prior to electing hazardous duty coverage, then ***the*** [~~said~~] employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employee may make the lump sum payment in his own behalf. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights

and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the Distilled Spirits Unit, the fees for which shall be:

(1)	Distiller's license, per annum	***$1,700***[~~$1,500~~].00
(2)	Rectifier's license, per annum	$1,500.00
(3)	Blender's license, per annum	$1,500.00
(4)	Vintner's license, per annum	$ 500.00
(5)	Small winery license, per annum	$ 250.00
(6)	Wholesaler's license, per annum	***$1,700***[~~$1,500~~].00
(7)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$ 600.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(e)	In all other counties	$ 200.00
(8)	Retail drink license, per annum:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(9)	Transporter's license, per annum	$ ***100***[~~25~~].00
(10)	Dining car license, per annum	$ 50.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12)	Special industrial alcohol license, per annum	$ 25.00
(13)	Special nonindustrial alcohol license, per annum	$ 25.00
(14)	Special agent's or solicitor's license, per annum	$ ***35***[~~20~~].00
(15)	Special storage or warehouse license, per annum	$ 100.00
(16)	Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).	
(17)	Special private club license, per annum	$ 150.00

(18)	Special Sunday retail drink license	$ 300.00
(19)	Nonresident, special agent or solicitor's license, per annum	$ ***35***[~~20~~].00
(20)	Transport permit, nonresident license, per annum	$ ***100***[~~25~~].00
(21)	Through transporter's license, per annum	$ ***100***[~~25~~].00
(22)	Freight forwarder's license, per annum	$ ***100***[~~25~~].00
(23)	Supplemental bar license:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(24)	Restaurant wine license, per annum:	
(a)	New applicants	$ 300.00
(b)	Renewals	$ 200.00

(25) ***Any*** [~~Such~~] other special license ***that*** [~~as~~] the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

(26) In the fiscal year beginning July 1, 1990, the board may use up to seventy-five percent (75%) of all annual license fee increases to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act. Thereafter, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

Section 4. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the Malt Beverages Unit, the fees for which shall be:

(1)	Brewer's license, per annum	$1,500.00
(2)	Microbrewery license, per annum	$ 250.00
(3)	Distributor's license, per annum	$ 200.00
(4)	Retailer's license per annum:	
(a)	New applicants	$ 200.00
(b)	Renewals	$ 75.00
(5)	Dining car license, per annum	$ 100.00
(6)	Transporter's license, per annum	$ ***100***[~~25~~].00
(7)	Special temporary license, per month or part of month	$ 12.50
(8)	Special off-premises storage license, per annum	$ ***100***[~~25~~].00
(9)	Distributor's storage, per annum	$ 50.00
(10)	Special beer transporter's license, per annum	$ 100[~~25~~].00

(11) ***Any*** [~~Such~~] other special licenses ***that*** [~~as~~] the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection (11) may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

(12) In the fiscal year beginning July 1, 1990, the board may use up to seventy-five percent (75%) of all annual license fee increases to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act. Thereafter, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(I) Any precinct located within any city or county in which prohibition is in effect in all or part of the city or county shall be designated as a minimum sale precinct by the governing body of the city or county, provided, the governing body determines to its satisfaction that the general trade, business, economy and tourism of the precinct within the city or county shall be best served by reason of the legal sale of alcoholic beverages. For the purpose of making the determination, the governing body may hold hearings, examine witnesses or receive evidence as it deems necessary or desirable for such purposes.

(2) Upon a determination by the governing body as provided for in subsection (I) of this section, the governing body of the city or county shall by ordinance designate the precinct as a minimum sale precinct and shall provide for an election to be held in the precinct to take the sense of the people as to the discontinuance of prohibition in the precinct.

(3) The election shall be held in the precinct in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120. The election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030; provided, however, that no election on the same question shall be held in the same precinct more often than once every three (3) years.

(4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050, except that the form of the proposition shall be, "Are you in favor of the limited sale of alcoholic beverages in (official name and designation of precinct)?"

(5) If a majority of the votes cast in any minimum sale precinct in which an election is held pursuant to this section are in favor of the limited sale of alcoholic beverages in that precinct, the governing body of the city or county shall by ordinance create or provide for the office of city alcoholic beverage control administrator or county alcoholic beverage control administrator pursuant to KRS Chapter 24I.

(6) Licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public may be granted in any minimum sale precinct. Licenses to sell alcoholic beverages pursuant to this section shall be issued only to a hotel, motel, inn or resort containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons; convention centers with a seating capacity of one thousand (I,000) persons; horse racetracks licensed to conduct a race meeting under KRS Chapter 230; commercial airports through which more than thirty thousand (30,000) passengers arrive or depart annually; outdoor recreational facilities, including but not limited to tennis courts, golf courses or outdoor stadiums; or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons at tables and which receive at least fifty percent (50%) or more of gross annual income from dining facilities by the sale of food.

(7) Notwithstanding any limitations imposed on the county taxing or licensing power by KRS 243.060 or the city taxing or licensing power by KRS 243.070, upon the discontinuance of prohibition in any minimum sale precinct, the governing body of the city or county may impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city or county budget period at such percentage rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city or county. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070 or county pursuant to KRS 243.060.

(8) Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a minimum sale precinct shall preclude or abridge the right of the constitutionally qualified voters of the precinct to petition for a subsequent election on the same question.

(9) If an election is held pursuant to other provisions of KRS Chapter 242 in the city or county in which a minimum sale precinct is located for the purpose of taking the sense of the voters upon the question of adopting or repealing prohibition for the entire city or county, the status of the question in a minimum sale precinct shall be determined in the following manner:

(a) The status of a minimum sale precinct shall not be affected by any election for the entire city or county, if the minimum sale precinct was established less than five (5) years prior to the date of the proposed

election for the entire city or county and in that case the voters of any minimum sale precinct shall not vote in the election.

(b) If the minimum sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or county, the voters within each minimum sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a minimum sale precinct?" No other question shall be presented to the voters of any minimum sale precinct.

(c) The votes of each minimum sale precinct shall be counted separately. If a majority of the votes cast in the minimum sale precinct are in favor of continuing the sale of alcoholic beverages therein as a minimum sale precinct, then the status shall continue within the precinct, except that if the city or county in which the minimum sale precinct is located votes against prohibition in the remainder of the city or county, the minimum sale precinct status of any precinct may be terminated by the governing body of the city county and thereafter the status of the precinct shall be the same as that in effect for the remainder of the city or county.

Section 6. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of a fee of one thousand dollars ($1,000). This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of a fee of ***one thousand dollars ($1,000).*** This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually for a fee of ***one thousand dollars ($1,000).*** The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, into and out of the state of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of ***one hundred dollars ($100).*** This license may be renewed annually for a fee of ***one hundred dollars ($100).*** The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the state of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one ***(1)*** airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

(4) ***If***[~~Where~~] it is determined by the department to be in the best interest of promoting tourism, conventions and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse ***racetracks*** [~~race tracks~~] licensed to conduct a race meeting under KRS Chapter 230, ***at outdoor recreational facilities,*** and at commercial airports through which more than ***thirty*** [~~five hundred~~] thousand ***(30,000)*** [~~(500,000)~~] passengers arrive or depart annually. Upon application by the holder of a retail alcoholic beverage license at a convention center, horse ***racetrack*** [~~race track~~], ***outdoor recreational facility*** or commercial airport as provided above, the department may establish the days when the supplemental license ***shall*** [~~will~~] be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be one thousand dollars ($1,000) per year and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may by regulation or special conditions of the supplemental permit establish [~~such~~] restrictions on the use of the license as ***shall*** [~~will~~] insure that it ***shall*** [~~will~~] be primarily for the benefit of the convention center business, the horse racing industry, ***users of the outdoor recreational facility,*** and passengers at large commercial airports. Provided, however, that no provision of this subsection shall apply to any portion of a county containing an urban county government.

Section 7. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. ***In this case***[~~; Provided~~], however, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers,

rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, ***four hundred dollars ($400)*** [~~one hundred dollars ($100)~~] per day; ***any license which by its terms authorize the sale of liquor by the drink, fifty dollars ($50)*** [~~retail drink liquor licensees, twenty-five dollars ($25.00)~~] per day; retail package liquor licensees, ***fifty dollars ($50)*** [~~twenty-five dollars ($25.00)~~] per day; retail beer licensees, ***twenty-five ($25.00)*** [~~ten dollars ($10.00)~~] per day; all remaining licensees, ten dollars ($10.00) per day.

(2) Payments in lieu of suspension collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

Section 8. KRS 224.990 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, ***except as provided in KRS 243.050 and this section,*** or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second, third or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second, third or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second, third or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and [~~subsections (2), (4) and (6) of~~] this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine ***shall*** [~~must~~] be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first***,*** [~~or~~] second***, or third*** class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county ***or city***)?"

(3) In any county containing a city of the first***,*** [~~or~~] second, ***or third*** class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in [~~subsections (2) and (4) of~~] this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first***,*** [~~or~~] second, ***or third*** class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned[~~, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food~~].

(5)[~~(a) Any hotel, motel, restaurant operation, convention center or commercial airport which sells liquor on Sunday shall pay each of its employees wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)6. notwithstanding.~~

~~(b) No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employees~~

~~from entering into an agreement to divide tips or gratuities among themselves~~] ***In any city of the first, second or third class, upon a determination that economic hardship exists in the city or that the general trade, business, economy and tourism of the city shall be best served by reason of the sale of alcoholic beverages by the drink on Sunday, the governing body of the city shall by duly enacted ordinance establish the hours and times in which distilled spirits and wine by the drink may be sold within its jurisdictional boundaries.***

(6) Any city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink as provided in KRS 242.185(1), may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by [~~subsections (2) and (4) of~~] this section. Such special licenses shall only be issued to those hotels, motels, inns or restaurants authorized to sell alcoholic beverages by the drink as provided in KRS 242.185(3). Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

Section 9. Whereas, distilled spirits, wine, and malt beverage licenses are granted at the beginning of the fiscal year, an emergency is declared to exist and this Act shall become effective July 1, 1990.

HB 297, AN ACT relating to local option.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

The adoption of urban-county government by a county containing a city or cities of the first four (4) classes when the local option status of the county is different from any of the cities contained therein shall not affect the local option status of the county or any of the cities of the first four (4) classes contained therein. The territorial boundaries in any county containing a city of the first four (4) classes shall survive the adoption of urban-county government for purposes of an election pursuant to KRS 242.125. The adoption of urban-county government shall not impede or affect the right of a county or city of the first four (4) classes contained therein to determine its own local option status.

The Committee Amendment No. 1 to **HB 297** is as follows:

Amend printed copy of **HB 297** on page 1, line 3, by inserting ***(1)*** before the word "***The***"; and

On page 1,after line 15, by adding the following:

"***(2) No part of this section shall apply to any urban-county government established prior to the effective date of this Act.***"

HB 473, AN ACT relating to malt beverage distributors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Each malt beverage distributor licensed under KRS 243.040 shall be issued a distributor solicitor permit. Application for the permit shall be upon forms provided by the board and shall include the name, date of birth, and Social Security number of each agent or employee authorized to offer for sale and to solicit orders for the sale of any malt beverage product sold by the distributor. The information provided on the distributor solicitor permit shall be updated on forms provided by the board on October 31, January 31, and April 30 of each license year. The distributor solicitor permit shall expire on June 30 of each year. Failure to comply with this section shall result in the suspension of the malt beverage distributor's license under KRS Chapter 243. The permit fee shall be two hundred dollars ($200.00) per annum.

The Committee on Education reported **HB 352**, **HB 378** with Committee Amendment attached thereto, and **HB 443** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 352, AN ACT relating to free tuition for firefighter's relatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.2841 is amended to read as follows:

(1) Any person whose parent or any non-married widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, ***firefighter or volunteer firefighter*** and who was killed while in active service or training for active service or who died as a result of a service-

connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state supported university, community college or vocational training institution.

(2) In order to obtain the benefits conferred by subsection (1) of this section, the parent-child relationship must be shown by birth certificate, adoption papers or other documentary evidence. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Justice Cabinet, ***the*** [~~or~~] appropriate city or county law enforcement agency which employed the deceased, ***the administrative agency for the fire department or fire protection district recognized for funding under KRS 17.250 or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.***

(3) If one so admitted to a state supported university, community college or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 2. KRS 164.2842 is amended to read as follows:

(1) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer***, firefighter or volunteer firefighter*** injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state supported university, community college or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer***, firefighter or volunteer firefighter*** must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice Cabinet, ***the*** [~~or~~] appropriate city or county law enforcement agency which employed the disabled, ***the administrative agency for the fire department or fire protection district recognized for funding under KRS 17.250 or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes,*** or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer***, firefighter or volunteer firefighter*** at the time of death. The parent's or spouse's service and rating must be evidenced by certification from the records of the Kentucky Justice Cabinet, [~~or~~] the appropriate local law enforcement agency***, the administrative agency for the fire department or fire protection district recognized for funding under KRS 17.250 or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.***

(3) In the absence of certification of permanent and total disability by the Kentucky Workers' Compensation Board, [~~or~~] the Kentucky Justice Cabinet, [~~or~~] the appropriate local law enforcement agency, ***the administrative agency for the fire department or fire protection district recognized for funding under KRS 17.250 or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes,*** medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship must be shown by birth certificate, legal adoption papers or other documentary evidence. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse or child to benefits under this section the disabled law enforcement officer***, firefighter or volunteer firefighter*** must have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer***, firefighter or volunteer firefighter.***

(6) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

HB 378, AN ACT relating to environmental education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby declares that maintaining a clean and healthy environment is a state priority and is the individual and collective responsibility of all citizens of Kentucky. It is therefore in the public interest that a comprehensive environmental education initiative be undertaken to promote an informed and knowledgeable citizenry with the skills and attributes necessary to effectively and constructively solve existing

environmental problems, prevent new ones and maintain a balanced and economically healthy environment for future generations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Environmental education" means an education process dealing with the interrelationships among the natural world and its man-made surroundings; is experience-based; interdisciplinary in its approach; and is a continuous life-long process that provides the citizenry with the basic knowledge and skills necessary to individually and collectively encourage positive actions for achieving and maintaining a sustainable balance between man and the environment.

(2) "Environmental literacy" means having adequate knowledge and understanding of environmental information, concepts and processes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established an environmental council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses and public interests. The council shall be an independent agency and be attached to the Education and Humanities Cabinet for administrative purposes.

(2) The nine (9) member council shall be appointed to five (5) year terms by the Governor with the approval of the Senate, and be composed of a balance of education, government, industry and environmental interests.

(3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.

(4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

(5) The council membership shall elect a chairperson to serve a one (1) year term.

SECTION 4. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The functions of the council shall be to:

(1) Create and update annually a five (5) year management and operational plan to make as effective as possible the coordination, delivery and marketing of all state environmental education programs;

(2) Establish an interagency subcommittee to advise the council on environmental education matters;

(3) Establish and help coordinate the activities of regional environmental education centers and advisory committees at all state universities to serve as networks for the dissemination of environmental education programs, materials and information across the state;

(4) Establish a competitive system for awarding grants for the establishment and maintenance of regional environmental education centers;

(5) Seek and receive private support to fund state and regional environmental education initiatives;

(6) Assist in the integration and evaluation of environmental education in existing school curricula;

(7) Monitor and report periodically on environmental literacy in Kentucky and continually assess trends and needs in environmental education on a local, state, national and global basis; and

(8) Make recommendations and seek changes through regulations, legislation and other means to promote environmental literacy in Kentucky.

The Committee Amendment No. 1 to **HB 378** is as follows:

Amend printed copy of **HB 378** on page 2, line 19 delete "***five (5)***" and insert "***four (4)***" in lieu thereof.

HB 443, AN ACT relating to interscholastic athletics and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf and the Kentucky School for the Blind. The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult and community education programs and services.

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency. ***The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations or bylaws which prohibit pupils in grades five (5) to eight (8) from participating in high school sports or from participating on more than one (1) school-sponsored team at the same time in the same sport.***

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. Any [~~such~~] lease may be for any initial term commencing with the date of ***the*** [~~such~~] lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which ***the*** [~~said~~] State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring [~~such~~] television and related facilities, with appurtenances and [~~such~~] costs as may be incident to the issuance of [~~such~~] bonds.

(b) Each [~~such~~] option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the Superintendent of Public Instruction, and delivered to the secretary of the Finance and Administration Cabinet as a member of ***the*** [~~said~~] commission; provided, however, that ***the*** [~~such~~] option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate [~~such~~] leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the Superintendent of Public Instruction and the Department of Education, is represented in ***the*** [~~such~~] manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any [~~such~~] contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to ***the*** [~~such~~] reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any [~~such~~] contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any [~~such~~] lease and to the cost of providing for the operation of ***the*** [~~such~~] television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state boards may, on the recommendation and with the advice of the Superintendent of Public Instruction, prescribe, print, publish and distribute at public expense [~~such~~] administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as each deems necessary for the

efficient management, control and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by each board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the Superintendent of Public Instruction or his designee, the state boards shall, within their respective jurisdictional areas, establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the Department of Education.

(6) Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on Higher Education for the issuance of associate, baccalaureate or graduate degrees. The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] and the state Department of Education shall not operate or administer any programs for ***the*** [~~such~~] degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board. The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~], with approval of the Council on Higher Education, may contract with institutions of public higher education for the operation of specific programs and projects.

(7) The Department of Education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~], contract with a local school system for ***the*** [~~such~~] services.

(8) The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.

(9) The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~], in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.

(10) The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.

Section 2. Whereas, participation in interscholastic athletics promotes good physical, mental and moral development of our youth, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Judiciary reported **HB 38**, **HB 319**, **HB 332**, **HB 368** with Committee Substitute attached thereto, and **HB 511** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 38, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification [~~between persons not married to each other~~] involving the sex organs of one (1) person and the mouth or anus of another;

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped;

(3) [~~"Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses are not married to one another for purposes of this chapter if either or both spouses have filed a petition under KRS Chapter 403 and they are living apart;~~]

~~(4)~~]. "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4)[~~(5)~~] "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5)[~~(6)~~] "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6)[~~(7)~~] "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(7)[~~(8)~~] "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor done for the purpose of gratifying the sexual desire of either party; and

(8)[~~(9)~~] "Sexual intercourse" means sexual intercourse in its ordinary sense [~~but is limited to sexual intercourse between persons not married to each other~~]. Sexual intercourse occurs upon any penetration, however slight; emission is not required.

HB 319, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when***:***

(a) With recklessness he causes or attempts to cause physical injury to a state, county, city, or federal peace officer***, employe of a detention facility,*** or probation and parole officer by means of a deadly weapon or a dangerous instrument***; or***

(b) Being a person confined in a detention facility he inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employe of the detention facility.

(2) Assault in the third degree is a Class D felony.

HB 332, AN ACT relating to the juvenile code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

Any statute requiring confidentiality for juvenile proceedings to the contrary notwithstanding, the identified victim of a crime committed by a juvenile shall receive from the court written notice as to the disposition of the juvenile's case and any penalty, alternative to detention, or other sanction imposed unless the case is dismissed, in which case the victim shall be notified of the dismissal of the case. The notification required by this section shall be mailed to the last known address of the victim within ten (10) days of any temporary or final disposition of the case either by the court or by a court designated worker in the event that the case is not brought before the court.

HB 368, AN ACT relating to liability for criminal acts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514 without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(2) The parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250). For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for Human Resources, or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) A conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to the maintenance of a civil action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages, or penalty, or both, attorney's fees and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the claim prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages or penalties, or both which may be recovered under this section, a judgment for recovery shall also include court costs and may include a recovery for reasonable attorney's fees.

(10) Civil claims under this section shall apply to those claims which arise after the effective date of this Act.

The Committee Substitute to **HB 368** is as follows:

HB 368, AN ACT relating to liability for criminal acts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514 without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(2) The custodial parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250). For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for Human Resources, or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) A conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to the maintenance of a civil action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages, or penalty, or both, and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the claim prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages or penalties, or both which may be recovered under this section, a judgment for recovery shall also include court costs.

(10) Civil claims under this section shall apply to those claims which arise after the effective date of this Act.

HB 511, AN ACT relating to civil commitment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) ***"Authorized staff physician" means a person who is employed as a physician of an ICF/MR;***

(2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker and other professionals, at least one (1) of whom is a qualified mental ***retardation*** [~~health~~] professional, and may include the resident, the resident's family, or the guardian;

(3) "Cabinet" means the Kentucky Cabinet for Human Resources;

(4) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family or others, including actions which deprive self, family or others of the basic means of survival, including provision for reasonable shelter, food or clothing and including a situation where a person, with available assistance of family, guardian, friends or community-based services, is unable to carry out the activities of daily living necessary to maintain the person's health and welfare;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, approved by the Kentucky Cabinet for Human Resources as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting available which will provide a mentally retarded person appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

(9)[~~(2)~~] "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(10) "ICF/MR[~~(3) "Mental retardation residential treatment center~~]" means ***an intermediate care*** [~~a~~

~~residential treatment~~], facility approved by the *cabinet* [~~department~~], for the evaluation, care and treatment of mentally retarded persons;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12)[~~(4)~~] "Qualified mental retardation professional" means:

(a) A *physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;*

(b) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychologists as competent to make examinations under this chapter;

(c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one (1) year is with mentally retarded persons; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program or a private agency or company engaged in the provision of mental retardation services; and

(d) A certified social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker under the provisions of KRS Chapter 335 with two (2) years of inpatient or outpatient clinical experience in social work of which one (1) year shall be in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program or a private agency or company engaged in the provision of mental retardation services [~~psychologist licensed under the provisions of KRS Chapter 319 who has either one (1) year of specialized training for work with mentally retarded persons or one (1) year of clinical experience with mentally retarded persons;~~

~~(b) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons or he shall have one (1) year of specialized training for work with mentally retarded persons;~~

~~(c) A certified social worker licensed under the provisions of KRS Chapter 335 or accredited by the academy of certified social workers with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons or he shall have one (1) year of specialized training for work with mentally retarded persons;~~

~~(d) A psychologist or a psychological associate with a master's degree from an accredited institution who has been awarded a certificate of qualification by the Kentucky board of examiners of psychologists under the provisions of KRS Chapter 319 with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons or he shall have one (1) year of specialized training for work with mentally retarded persons; and~~

~~(e) Other professional persons with similar training and experience who are qualified according to regulations promulgated by the secretary to participate in seventy-two (72) hour involuntary hospitalization procedures under this chapter~~];

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14)[~~(5)~~] "Resident" means a person under care or treatment in *an ICF/MR* [~~a mental retardation residential treatment center~~] pursuant to the provisions of this chapter; [~~and~~]

(15) "Respondent" means a person alleged in a hearing under this chapter to be a mentally retarded person; and

(16) "Secretary" shall mean the secretary of the Cabinet for Human Resources.

[~~(6) All terms defined in KRS Chapter 202A shall have the same meaning when used in this chapter.~~]

SECTION 2. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

All proceedings for the involuntary admission of mentally retarded persons shall be initiated in the District Court of the county where the person to be treated resides or in which the person may be at the time of the filing of a petition.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

In all proceedings under this chapter, it shall be the duty of the county attorney to assist the petitioner and represent the interest of the Commonwealth and to assist the court in its inquiry by the presentation of evidence.

SECTION 4. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Mentally retarded minors and adult persons may be voluntarily admitted for care and treatment in an ICF/MR under the applicable provisions of this section.

(2) An interdisciplinary team of an ICF/MR may admit for care and treatment a mentally retarded minor upon application of a parent or guardian. The interdisciplinary team of an ICF/MR may also admit a mentally retarded adult person who applies voluntarily therefor and who, in the opinion of the physician, possesses the mental capacity to give informed consent for admission.

(3) An interdisciplinary team of an ICF/MR shall discharge any voluntarily admitted resident whose care and treatment in the ICF/MR is determined to be no longer necessary or advisable.

SECTION 5. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) An authorized staff physician may order the admission of any person who is present at, or is presented at, an ICF/MR. Within twenty-four (24) hours, excluding weekends and holidays, of the admission under this section, the authorized staff physician ordering the admission of the person shall certify in the record of the individual that in the opinion of the physician, the individual should be involuntarily admitted.

(2) Any person who has been admitted to an ICF/MR under subsection (1) of this section shall be released from the ICF/MR within seventy-two (72) hours, excluding weekends and holidays, unless further detained under the applicable provisions of this chapter.

Section 6. KRS 202B.030 is amended to read as follows:

When mentally retarded individuals are involuntarily hospitalized under this chapter, the cabinet may place them in ***an ICF/MR*** [~~a mental retardation residential treatment center~~]. No mentally retarded person may be involuntarily placed in a hospital without the consent of the secretary, except when the determination of concurrent mental illness is made under the provisions of KRS Chapter 202A. No mentally retarded person [~~or juvenile~~] may be involuntarily admitted to a hospital or ***ICF/MR*** [~~mental retardation residential treatment center~~] when the cabinet determines that appropriate programs and space are not available.

Section 7. KRS 202B.040 is amended to read as follows:

When a person who is alleged to be mentally retarded is involuntarily ***admitted*** [~~committed~~], there shall be a determination that:

(1) ***The person*** [~~He~~] is a mentally retarded person;

(2) ***The person*** [~~He~~] presents a danger or a threat of danger to self***, family*** or others;

(3) The least restrictive alternative mode of treatment ***presently available*** requires placement in ***an ICF/MR*** [~~a hospital or mental rtardation residential treatment center~~]; ***and***

(4) Treatment that can reasonably benefit the ***person*** [~~individual~~] is available in ***an ICF/MR*** [~~the hospital or mental retardation residential treatment center; and~~

~~(5) The application by parents or guardians for placement for their retarded family member or ward in any mental retardation treatment center shall not be considered an involuntary commitment under this section, provided the retarded family member's application has been evaluated by an interdisciplinary team as defined in KRS 202B.010 and the subsequent admission fully complies with the provisions of KRS Chapter 202B~~].

Section 8. KRS 202B.045 is amended to read as follows:

(1) Admission:

(a) ***Residents*** [~~Patients~~] shall be admitted only upon the approval of ***an interdisciplinary team*** [~~a physician~~]. The facility shall admit only persons who have a physical or mental condition which requires developmental nursing services and a planned program of active treatment;

(b) The interdisciplinary team shall:

1. Conduct a comprehensive evaluation of the individual, not more than three (3) months before admission, covering physical, emotional, social, and cognitive factors; and

2. Prior to admission define the need for service without regard to availability of those services. The team shall review all available and applicable programs of care, treatment, and training and record its findings;

(c) If admission is not the best plan but the individual must be admitted nevertheless, the facility shall clearly acknowledge that the admission is inappropriate and initiate plans to actively explore alternatives;

(d) Before admission, the resident and a responsible member of his family or ***guardian*** [~~committee~~] shall be informed in writing of the established policies of the facility and fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services offered; and

(e) The facility shall provide and maintain a system for identifying each resident's personal property and facilities for safekeeping of his declared valuables. Each resident's clothing and other property shall be reserved for ***the resident's*** [~~his~~] own use.

(2) Discharge planning. Prior to discharge the facility shall have a postinstitutional plan which identifies the residential setting and support services which would enable the resident to live in a less restrictive alternative to the current setting. Before a resident is released, the facility shall:

(a) Offer counseling to parents or guardians who request the release of a resident concerning the advantages and disadvantages of the release;

(b) Plan for release of the resident, to assure that appropriate services are available in the resident's new environment, including protective supervision and other follow-up services; and

(c) Prepare and place in the resident's record a summary of findings, progress, and plans.

SECTION 9. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Proceedings for involuntary admission of a person to an ICF/MR shall be initiated by the filing of a verified petition in District Court.

(2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."

(3) The petition shall be filed by a qualified mental retardation professional, peace officer, county attorney, Commonwealth's attorney, spouse, relative, friend or guardian of the person concerning whom the petition is filed.

(4) The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any, and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that such person is unknown; and

(f) Petitioner's belief, including the factual basis therefor, that the respondent is mentally retarded and presents a danger or threat of danger to self, family or others if not admitted to an ICF/MR.

(5) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental retardation professional, the court may dispense with the examination.

(6) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily admitted, the court shall:

(a) Set a date for a preliminary hearing;

(b) Notify the respondent, the respondent's legal guardian, if any, and if known, and the respondent's spouse, parents, or nearest relative or friend concerning the allegations and contents of the petition and

the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent; and

(c) Cause the respondent to be examined without unnecessary delay by two (2) qualified mental retardation professionals, at least one (1) of whom is a physician. The qualified mental retardation professionals shall certify their findings within twenty-four (24) hours, excluding weekends and holidays.

(7) (a) If the respondent is presently residing in an ICF/MR under the provisions of this chapter, the court may allow continued further residence therein for the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not currently residing in an ICF/MR under the provisions of this chapter, the court may order the respondent, the respondent's guardian, or any person or entity exercising custodial control of the respondent to submit the respondent to an examination, without unnecessary delay, by two (2) qualified mental retardation professionals, at least one (1) of whom is a physician.

(8) If, upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily admitted, the court shall order a final hearing to determine if the respondent should be involuntarily admitted.

(9) If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from the ICF/MR.

(10) If, upon completion of the final hearing, the court finds the respondent should be involuntarily admitted, the court shall order the respondent admitted in an ICF/MR for an indeterminate period. The order shall also specify the period within which the initial review pursuant to Section 24 of this Act is to be held.

SECTION 10. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

A respondent who has been ordered involuntarily admitted following the preliminary hearing shall have venue for all subsequent proceedings, including the final hearing, transferred to the court of the county where the respondent is admitted; however, the court of the county where the preliminary hearing was held may, upon its own motion, or shall, upon motion of one (1) of the parties, retain venue over proceedings subsequent to the preliminary hearing.

SECTION 11. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) The certificate referred to in this chapter shall be in the form prescribed by the cabinet. The certificate shall state that the respondent has been examined by each of the qualified mental retardation professionals making the certificate within twenty-four (24) hours, excluding weekends and holidays, prior to the date of the certificate. It shall state the facts and circumstances upon which the judgment of the examining physician is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) The examiner shall be entitled to a fee for the examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

SECTION 12. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

In any proceeding for involuntary admission under the applicable provisions of this chapter, if the criteria for involuntary admission are not certified by at least two (2) examining qualified mental retardation professionals, at least one (1) of whom is a physician, the court shall, without taking any further action, terminate the proceedings and order the release of the person. The qualified mental retardation professionals shall certify to the court, within twenty-four (24) hours of the examination, excluding weekends and holidays, their findings and opinions as to whether the person shall be involuntarily admitted.

SECTION 13. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

A qualified mental retardation professional retained by the respondent, or the respondent's guardian, or a representative of the respondent's family, shall be permitted to witness and participate in any examination of the respondent and may submit findings, if any, to the court.

SECTION 14. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) The preliminary hearing shall be held not later than fifteen (15) days, excluding weekends and holidays, from the date of the filing of the petition.

(2) The final hearing shall be held within twenty (20) days of the date of the preliminary hearing or within thirty (30) days of the date of filing of the petition if the preliminary hearing is waived.

SECTION 15. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) The preliminary hearing need not be formal and shall include the receiving of the qualified mental retardation professionals' reports as evidence. The hearing may be held by the court in chambers, at an ICF/MR, or other suitable place. The respondent shall be afforded an opportunity to testify, to present witnesses, and to cross-examine any witnesses. The respondent and the attorney for the respondent may waive respondent's right to a preliminary hearing.

(2) The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at an ICF/MR, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine any witnesses. The manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding, except that the standard of proof shall be by clear and convincing evidence. Proceedings shall be heard by a judge unless a party requests a jury trial. Neither the respondent nor the respondent's attorney may waive the respondent's right to a final hearing.

(3) Guardians and immediate family members of the respondent shall be allowed to attend all hearings, conferences or similar proceedings; may be represented by private counsel, if desired; may participate in the hearings or conferences as if a party to the proceedings; may cross-examine witnesses if desired; and shall have standing to appeal any adverse decision.

SECTION 16. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Following the preliminary hearing but prior to the completion of the final hearing, the court may order the respondent to reside in an ICF/MR approved by the secretary for that purpose for the committing judicial district in a community program approved by the secretary, in a hospital, or in jail for a period not to exceed forty-eight (48) hours if no other alternative exists. The respondent may be released, upon application and agreement of the parties, for the purpose of community-based outpatient treatment.

(2) An ICF/MR or a hospital shall discharge a respondent residing therein and notify the court and attorneys of record, if the interdisciplinary team of the ICF/MR or an authorized staff physician of the hospital determines that the respondent no longer meets the criteria for involuntary admission.

(3) If a respondent is discharged by the ICF/MR or hospital pursuant to subsection (2) of this section, the proceedings against the respondent shall be dismissed.

SECTION 17. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) The court records of a respondent made in all proceedings pursuant to KRS Chapter 202B shall be confidential and shall not be open to the general public for inspection except when the disclosure is provided in Section 15 of this Act.

(2) Following the discharge of a respondent from an ICF/MR or hospital or the issuance of a court order denying a petition for admission, a respondent may at any time move to have all court records pertaining to the proceedings expunged from the files of the court. The county attorney shall be given notice of any motion and shall have five (5) days in which to respond to same or request a hearing thereon.

(3) Any person seeking information contained in the court files or the court records of proceedings involving persons under this chapter may file a written motion in the appropriate court setting out why the information is needed. A district judge may issue an order to disclose the information sought if the judge finds the order is appropriate under the circumstances and if the judge finds it is in the best interest of the person or of the public to have the information disclosed.

SECTION 18. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

In proceedings under this chapter, there shall be no privilege as to any relevant communications between qualified mental retardation professionals and patients. Qualified mental retardation professionals may disclose communications relating to diagnosis and treatment of the patient's mental condition.

SECTION 19. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) The court which orders any person to an ICF/MR under the provisions of this chapter, shall at once notify the cabinet that the order has been made, advising of the sex and condition of the person.

(2) The ICF/MR may refuse to receive any person who has been ordered to be involuntarily admitted by a court order if appropriate programs and space are not available or the papers presented with the person at the ICF/MR do not comply with the provisions of this chapter or if it does not receive notification of the order of involuntary admission as required by this chapter.

(3) After the cabinet has been so notified, the court may order the sheriff of the county to transport the person within forty-eight (48) hours, excluding weekends and holidays, from the county in which the person is located to the ICF/MR designated by the cabinet. The actual traveling expenses of persons transporting the person to the institution shall be paid by the cabinet. Each female admitted to an ICF/MR shall be accompanied by a female attendant, unless accompanied by her mother, father, sister, brother, husband, daughter, or son.

(4) In returning any person to the county from which that person is sent, the cost of returning the person shall be paid in the same manner, when necessary.

(5) If a person is involuntarily admitted by a court order, the person shall be transported to the ICF/MR designated by the cabinet and accompanied by the following documents:

(a) A copy of the petition for involuntary admission;

(b) The certificate of qualified mental retardation professionals; and

(c) The order of involuntary admission.

SECTION 20. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

Upon the filing of a petition for involuntary admission pursuant to Section 9 of this Act, the court shall appoint an attorney to represent the respondent with the appointment and representation to continue unless the respondent retains private counsel. The appointed attorney shall be forthwith notified by the clerk of the allegations in the petition and the date and purpose of the preliminary hearing. When it is necessary to appoint counsel, the District Court shall endeavor to appoint private counsel, if available, to represent respondents, from a list of attorneys who have volunteered to represent such respondents. The list shall be maintained by the district court clerk. Private counsel appointed by the court shall be compensated in the manner set forth in KRS 31.070. If no other method of appointing counsel for the respondent is available, the respondent shall be represented by the public advocate pursuant to KRS Chapter 31.

SECTION 21. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

The respondent shall be present at all hearings unless the respondent and the respondent's attorney waive the respondent's rights to be present, or unless the court makes a specific finding after the respondent has been brought to the place of the hearing that the respondent should be removed from the hearing because the person's conduct is so disruptive that the proceedings cannot continue in any reasonable manner.

SECTION 22. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

Appeals from the final orders or judgments of the District Court made and entered in proceedings under this chapter shall be taken in the manner as other appeals from District Court to Circuit Court. Appeals may be taken by the Commonwealth, the individual who is subject to the proceedings or the individual's guardian, limited guardian, or other authorized representative. This appeal shall be advanced on the Circuit Court docket without motion or notice.

SECTION 23. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Every resident admitted under the provisions of this chapter shall have an annual review conducted by an interdisciplinary team of the ICF/MR to determine the appropriateness of and the necessity for care and treatment provided the resident in the ICF/MR. On or before the anniversary date of an involuntary admission order entered for a resident pursuant to Section 18 of this Act, and every year thereafter for as long as the resident resides in the ICF/MR, the ICF/MR shall file with the admitting court an interdisciplinary evaluation report on behalf of the resident whose continued placement in the ICF/MR is required. The report shall detail the social, psychological, medical, and other considerations requiring continued placement of the resident in the ICF/MR, a description of the treatment or habilitation programs which will benefit the resident as a result of such placement, and a statement that the criteria for involuntary admission set forth in KRS 202B.040 are satisfied. The interdisciplinary report shall list the name and address of the guardian or limited guardian or, if none, an immediate family member of the resident.

(2) An interdisciplinary team shall discharge a resident whose admission is pursuant to court order when it is determined that the resident no longer meets the criteria for involuntary admission as provided in KRS 202B.040. When a resident is discharged, the ICF/MR shall send notice of the discharge to the court.

SECTION 24. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) No less than once in every five (5) years following the initial order for involuntary admission of

a resident to an ICF/MR, or an order authorizing continued care and treatment following review pursuant to this section, the court shall hold a hearing to review the status of the resident and necessity for continued care and treatment in the ICF/MR. Notice at least twenty (20) days in advance of the hearing shall be provided by the court to the ICF/MR, county attorney, guardian or limited guardian of the resident, if any, or, if none, an immediate family member as listed on the last interdisciplinary report filed by the ICF/MR. The court shall appoint an attorney to represent the resident at the review hearing.

(2) The review hearing may be informal and held in open court, in chambers, or at the ICF/MR. The hearing shall be held without a jury and the resident shall be entitled to present documentary evidence and witnesses and cross-examine witnesses against the resident.

(3) At the conclusion of the review hearing, the court shall make written findings of fact concerning whether the criteria for involuntary admission set forth in KRS 202B.040 continue to be satisfied based upon clear and convincing evidence. If the court finds that the involuntary admission criteria continue to be satisfied, the court shall enter an order authorizing the continued care and treatment of the resident at the ICF/MR and shall establish the period within which the next review shall be held. Otherwise, the court shall enter an order requiring the resident to be discharged from the ICF/MR.

(4) If at any point during the resident's placement at an ICF/MR it appears that the resident no longer meets the criteria for involuntary admission set forth in KRS 202B.040, the resident, the resident's parent, guardian or limited guardian, immediate family member, or attorney may request a review pursuant to this section.

SECTION 25. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

At any time, and without notice, a person detained at a facility, or a relative, friend, guardian, representative, or attorney on behalf of such person, may petition for a writ of habeas corpus to question the cause and legality of the detention and request that the Circuit Court issue a writ for release.

SECTION 26. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) An interdisciplinary team may release a resident on convalescent leave status when the interdisciplinary team concludes that the resident would not present a danger or a threat of danger to self, family or others if provided with continued medical supervision in a less restrictive alternative mode of treatment. Release on convalescent leave status does not terminate a court admission order and shall include provisions for the development of a treatment plan jointly by the ICF/MR and by a provider of outpatient care for follow-up care by the provider and for the continual monitoring of that resident's condition by the provider.

(2) The ICF/MR from which the resident is given convalescent leave status may at any time readmit the resident without additional court proceedings. If there is reason to believe that it is in the best interest of the resident to be readmitted, the secretary or an authorized staff physician of the ICF/MR may issue an order for the immediate readmission of the resident. The order, if not voluntarily complied with, shall, upon the endorsement by a judge of any court of the county in which the resident resides or is present, authorize any peace officer to take the resident into custody and transport the person to the responsible ICF/MR. Notice of readmission under this section shall be given to the originating court as soon as practicable and simultaneously with the order directing the readmission if possible.

(3) Release on convalescent leave status shall not apply to persons held under admission orders arising out of KRS Chapter 504 unless consent of the appropriate court is obtained.

SECTION 27. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

If a resident undergoing involuntary treatment on an inpatient basis is absent from the ICF/MR without or in excess of authorization from the ICF/MR staff, the person in charge or that person's designee may notify the appropriate sheriff or other peace officers who shall take the resident into custody and return the resident to the ICF/MR.

SECTION 28. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

An interdisciplinary team of an ICF/MR may admit for respite care a mentally retarded person. Respite care provided to any mentally retarded person under this section shall not exceed a total of thirty (30) days in any calendar year.

Section 29. KRS 202B.060 is amended to read as follows:

The secretary shall adopt administrative regulations for the proper administration and enforcement of this chapter. *The* [~~Such rules and~~] regulations shall include, but shall not be limited to:

(1) Rights of mentally retarded residents and their families to be adequately informed as to the individual treatment program of the resident;

(2) Rights of residents and their families to assist in the planning of the treatment program of the resident;

(3) Rights of residents and their families under certain conditions to refuse treatment offered to the resident by the hospital or ***ICF/MR*** [~~mental retardation residential treatment center~~];

(4) Rights of residents to maintain, keep and use personal possessions and money;

(5) Rights of residents to meet with friends and relatives;

(6) Rights of residents to receive payment for work performed on behalf of the hospital or ***ICF/MR*** [~~mental retardation residential treatment center~~];

(7) Rights of residents to refuse intrusive treatments, including electroshock or psychosurgery;

(8) Rights of residents to seek relief from participating in their treatment plans;

(9) Rights of residents who are minors to seek relief from actions, approved by their parents or guardians, for or against admission and discharge;

(10) The use of seclusion and other mechanical restraints in hospitals and ***ICFs/MR*** [~~mental retardation residential treatment centers~~];

(11) The release of residents to less restrictive alternative modes of treatment on convalescent status; and

(12) Provisions for alternative methods for involuntary ***admission*** [~~hospitalization~~].

SECTION 30. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Every ICF/MR approved under the provisions of this chapter shall have a review committee of three (3) qualified mental retardation professionals appointed by the facility director. This review committee shall have the authority to review the appropriateness of a resident's individual treatment plan.

(2) Upon the refusal of an involuntary resident to participate in any aspect of the resident's treatment plan, the review committee shall examine the appropriateness of the resident's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the resident and the resident's counsel or other representative to discuss their recommendations.

(3) If the resident still refuses to participate in any aspect of the resident's individual treatment plan, the ICF/MR may petition the District Court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, the court shall conduct a hearing, consistent with the resident's rights to due process of law, and shall utilize the following factors in reaching its determination:

(a) Whether the treatment is necessary to protect other residents or the resident himself from harm;

(b) Whether the resident is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment exists; and

(d) Whether the proposed treatment carries any significant risk of permanent side effects.

(4) Upon completion of the hearing, the court shall enter an appropriate judgment. The proposed treatment shall be authorized if supported by clear and convincing evidence. If the court denies the ICF/MR the right to administer the treatment in question, the ICF/MR may discharge the resident, unless an interdisciplinary team of the ICF/MR determines that an alternative treatment is available and acceptable to both the interdisciplinary team and the resident and would benefit the resident.

SECTION 31. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Legal residents of the state who have become public charges in other states and have been returned to Kentucky because they have been involuntarily admitted may be immediately admitted to an ICF/MR at the request of the secretary or the secretary's designated representative.

(2) Within seventy-two (72) hours, excluding weekends and holidays, of the admission date, the staff of the ICF/MR shall determine the need of the person for further admission. If two (2) qualified mental retardation professionals, at least one (1) of whom is a physician, conclude that the person shall be involuntarily admitted, they shall file in the appropriate court a certification requesting involuntary admission procedures

be initiated under the provisions of this chapter, unless the person has agreed to remain voluntarily and possesses the mental capacity to give informed consent for voluntary admission.

Section 32. KRS 202B.050 is amended to read as follows:

All rights guaranteed by KRS [~~Chapters 202A (other than those rights enumerated in KRS 202A.026 and 202A.051) and~~] Chapter 210 to mentally ill persons shall apply to mentally retarded persons.

Section 33. KRS 202B.080 is amended to read as follows:

This chapter may be cited as the "Kentucky Mental Retardation ***Admission*** [~~Hospitalization~~] Act".

Section 34. KRS 202B.990 is amended to read as follows:

(1) The unwarranted ***admission*** [~~hospitalization~~] of any ***person*** [~~individual~~] under the provisions of this chapter; or

(2) The denial of any ***person*** [~~individual~~] of any of the rights accorded to him under the provisions of this chapter shall be punished by a fine not exceeding five thousand dollars ($5,000) or imprisonment for a term not to exceed five (5) years or both.

(3) Any person who violates the confidentiality of any mental health record under the provisions of this chapter shall be guilty of a Class A misdemeanor.

Section 35. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for Human Resources who meets the qualifications of KRS 335.080(1)(a), (b) and (c) or 335.090(1)(a), (b) and (c). The social worker shall, whenever possible, be chosen from among employees of the Cabinet for Human Resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011(11). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010***(12)***[~~(3)~~].

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence are admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for such evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

Section 36. The following KRS section is repealed:

202B.020 Hospitalization for mentally retarded — Court examination.

The Committee on Transportation reported **HB 345**, **HB 399** and **HB 490** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 345, AN ACT relating to the Department of State Police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) Any officer who is sued for any act or omission in the line of duty and who has a judgment for monetary damages rendered against him in his individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded pursuant thereto, shall be indemnified by the Commonwealth, from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his actual financial lose.

(2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission which resulted in liability was within the scope and course of the officer's employment and occurred during the performance of duty and was committed or omitted in the good faith belief that the act or omission was lawful and proper.

(3) If the officer seeking indemnification is the commissioner, the determination referred to in subsection (2) of this section shall be made by the Governor.

(4) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the officer and shall not constitute a waiver of any privilege, immunity or matter of defense, including the sovereign immunity of the Commonwealth.

(5) The indemnification shall not be the subject of comment, directly or indirectly, before any jury hearing any cause of action in which an officer is a party, and any comment before the jury shall result in an immediate mistrial.

HB 399, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.222 is amended to read as follows:

(1) The secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length and gross weight prescribed in KRS 189.221, if in the opinion of ***the*** [~~said~~] secretary, the increased height, length and weight designated by him are justified by the strength, safety and durability of the designated highways, and ***the*** [~~said~~] highways do not appear susceptible to unreasonable and unusual damage by reason of ***the*** [~~such~~] increases and ***the*** [~~said~~] secretary ***may*** [~~is authorized to~~] establish reasonable classification of ***the*** [~~such~~] roads and [~~to~~] fix a different maximum for each classification. [~~Provided, however, that~~] Any increase in the height, length or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by ***the*** [~~such~~] vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. ***No*** [~~In no event shall any~~] single axle in any arrangement ***shall*** exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. [~~In no event shall~~] The total gross weight of the vehicle and load ***shall not*** exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. [~~In no event shall~~] The gross weight ***shall not*** exceed eighty thousand (80,000) pounds;

(e) Truck tractor, semitrailer and trailer combinations and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) ***and vehicles being used to transport crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, other building materials, solid waste, tankage or animal residues, livestock and agricultural products*** shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(5) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent or employee thereof.

(6) Notwithstanding any other provisions of this chapter, [~~in no event may~~] the secretary of the Transportation Cabinet ***may not*** authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. [~~In no event shall~~] the total gross weight of the vehicle and load ***shall not*** exceed eighty thousand (80,000) pounds. ***If*** [~~; provided, however, in the event~~] any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, [~~then~~] the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but ***the*** [~~in no event shall said~~] increased weights and dimensions ***shall not*** exceed those set out in this section.

HB 490, AN ACT relating to motorcycles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall administer and establish standards for a motorcycle rider education program. The program shall include, rider training courses, a program to include public awareness, alcohol and drug effects on motorcycle operators, driver improvement for motorcyclists, program promotion, or other motorcycle safety issues.

(2) A director shall be appointed as the program coordinator to supervise and direct the program by establishing training courses and funding guidelines and conduct an annual evaluation.

(3) The director may appoint training specialists who shall assist in establishing rider training courses through the state, support and implement program and funding guidelines and supervise instructors and other personnel as necessary.

(4) Rider training courses shall be open to all residents of the state who hold a current valid driver's license of any classification or who are eligible for a motorcycle learner's permit.

(5) An adequate number of rider training courses shall be provided to meet the reasonably anticipated needs of all persons in the state who desire to participate in the program. The cabinet shall issue certificates of completion to persons who satisfactorily complete the requirements of the course.

(6) The cabinet may enter into contracts with either public or private institutions for technical assistance in conducting rider training courses, if the course is administered and taught by a person who has successfully completed an instructor's course as prescribed in subsection (1) of this section. An organization conducting a rider training course may charge a course fee; however, the cabinet shall establish a maximum fee which a private organization may charge.

(7) The cabinet shall adopt administrative regulations which are necessary to carry out the provisions of the motorcycle rider education program and the motorcycle instructor courses.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish standards for an approved motorcycle rider education instructor preparation course. Successful completion of the course shall require the participant to demonstrate knowledge of course material consisting of safe motorcycle operating practices and an aptitude for instruction of students.

(2) The cabinet shall establish minimum requirements for the qualification of a rider education instructor. The requirements shall include, but not limited to the following:

(a) A high school diploma or its equivalent;

(b) Be at least eighteen (18) years old and possess a valid motorcycle operator's license;

(c) Two (2) years of recent motorcycle experience;

(d) Operator's license not have been suspended or revoked within the preceding two (2) years and no convictions for driving under the influence during the preceding five (5) years; and

(e) An approved instructor certificate from the cabinet or a proof of completion of the instructor training offered by the motorcycle safety foundation and proof the applicant is an active instructor.

(3) Applicants for an instructor certificate who reside out of state shall provide the cabinet with a certified copy of their driving record. Applicants for instruction shall not be certified until driving records for the preceding five (5) are provided to the cabinet.

Section 3. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be ***eleven dollars ($11.00), of which six dollars ($6.00) shall be used to defray the costs of the motorcycle safety courses established pursuant to Sections 1 and 2 of the Act*** [~~five dollars ($5)~~], and for each sidecar attachment, three dollars ($3).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	882.00
62,001-73,280	1,125.00
73,281-80,000	1,260.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen

thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(13) (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.

(14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:

(a) The automobile shall be provided for the full-time exclusive use of the applicant; and

(b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

Section 4. KRS 189.285 is amended to read as follows:

(1) No person shall operate a motorcycle on a highway:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times ***the*** [~~such~~] vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) No person shall operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner; and

(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion, ***except that the requirement for wearing approved protective headgear may be waived if the driver is twenty-one (21) years old or order and has completed the motorcycle rider education program provided by Section 1 of this Act.***

(3) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear, and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(4) As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

(5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

The Committee Amendment No. 1 to **HB 490** is as follows:

Amend printed copy of **HB 490** on page 13, lines 13 through 26, by deleting said lines in their entirety.

On page 14, lines 1 through 26, by deleting said lines in their entirety.

On page 15, lines 1 through 14, by deleting said lines in their entirety.

The Committee on Banking and Insurance reported **HB 207** with Committee Substitute attached thereto, **HB 413**, **HB 470** and **SB 161** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 207, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter, every insurer or health maintenance organization authorized to do business in this state shall offer all its coverage statewide. No authorized insurer or health maintenance organization shall refuse to insure or enroll any Kentucky citizen solely on the basis of that person's place of residence.

The Committee Substitute to **HB 207** is as follows:

HB 207, AN ACT relating to insurance.

WHEREAS, state employees, teachers, and others have expressed dissatisfaction over the limited availability of coverage by health maintenance organizations in certain regions of the state; and

WHEREAS, some legislators have proposed that insurance and health maintenance organization coverage should be offered statewide whenever they are offered in Kentucky; and

WHEREAS, such a requirement should be carefully studied, since it carries the potential for disruption of the insurance industry; and

WHEREAS, health maintenance organizations and other managed health care options account for an ever-increasing share of the health insurance coverage possessed by Kentuckians; and

WHEREAS, these options are intended to save money for individuals and employers, but there is debate on their efficiency as alternatives to traditional health insurance;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission shall study the feasibility of requiring Kentucky health insurers, health maintenance organizations, and other managed care plans to offer all their coverage statewide, and shall further study the cost savings to Kentuckians resulting from the use of health maintenance organizations and other managed care options as opposed to traditional health insurance.

Section 2. This report shall be submitted to the Kentucky General Assembly no later than September 1, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000).

These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

HB 413, AN ACT relating to mortgages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Line of credit" means a note, commitment, instrument or agreement in writing between a lender and a debtor pursuant to which:

1. The lender may extend loans, advances or other extensions of credit to, or for the benefit of, the debtor; and

2. The total amount of loans, advances or extensions of credit outstanding may increase or decrease from time to time.

(b) "Revolving credit plan" means an arrangement between a lender and a debtor pursuant to which:

1. The lender may extend credit to the debtor by permitting the debtor to make purchases of goods, services and anything else of value or obtain loans, from time to time, directly from the bank or indirectly by use of a credit card, check or other device, as the plan may provide;

2. The unpaid balances of purchases made, the principal of loans obtained and finance and other appropriate charges are debited to the debtor's account;

3. A finance charge, if made, is not pre-computed, but is computed on the outstanding unpaid balances of the debtor's account from time to time; and

4. The lender renders bills or statements to the debtor at regular intervals, which need not be a calendar month (the "billing cycle"), the amount of which bills or statements is payable by and due from the debtor on a specified date stated in the bill or statement or, at the debtor's option, may be paid in installments.

(2) Any mortgage of real property may secure payment of any or all sums due and payable by the debtor under a line or credit or under a revolving credit plan if the mortgage:

(a) States, in substance or effect, that the parties intend that the mortgage secures the line of credit or revolving credit plan;

(b) Specifies the maximum principal amount of credit which may be extended under the line of credit or the maximum credit limit of the revolving credit plan which, in each case, may be outstanding at any time or times under the line or credit or plan, and which is to be secured by the mortgage.

The mortgage shall remain in full force and effect until released of record as provided in subsection (5) of this section and the validity, continued effectiveness and priority of the mortgage shall not be affected or impaired by the fact that no loan, advance or extension of credit is made at the time of the execution or recordation of the mortgage, or that the outstanding balance due under the line of credit or revolving credit plan secured by the mortgage is zero at any time or times.

(3) Except as provided in paragraphs (a), (b) and (c) of this subsection or in any written subordination or other written agreement entered into by the lender relating to the priority of the mortgage referred to in subsection (2) of this section, the lien of the mortgage referred to in subsection (2) of this section shall be superior to any liens or encumbrances of any kind created or arising after recordation of the mortgage, even to the extent of sums advanced by the lender with actual or constructive notice of a subsequently created lien, but the lien of the mortgage shall be inferior to:

(a) Real estate tax liens and liens for public improvement assessments explicitly stated by statute to be superior to other non-tax liens;

(b) Any construction funds advanced under, or any additional indebtedness incurred within the meaning of KRS 382.520 and secured by, the lien of any mortgage recorded prior to the mortgage referred to in subsection (2) of the section; or

(c) Any sums specifically authorized to be advanced under any mortgage recorded prior to the mortgage referred to in subsection (2) of this section for, or paid on account of, taxes, charges, fines and assessments against covering the property described in the mortgage or to effect insurance thereon.

(4) (a) The debtor or his agent may, at any time or times, request the lender to amend the mortgage to reduce the maximum amount of credit specified in the mortgage referred to in subsection (2) of this section which may be extended under the line of credit or revolving credit plan by sending by certified mail, return receipt requested, or physically delivering to the lender at the address and to the person or department, if any, specified in the agreement establishing the line of credit or revolving credit plan, a written request signed and acknowledged by all debtors obligated under the line of credit or revolving credit plan. The request shall:

1. Specifically, and not by implication, describe the line of credit or revolving credit plan by account or other identifying number and request that the line of credit or plan be amended by reducing the maximum amount of credit which may be extended under the line of credit or the amount of the credit limit of the revolving credit plan which, in either case, may be outstanding from time to time under the line of credit or revolving credit plan, to an amount specified in the notice. The amount may not, however, be less than the balance owing under the line of credit or revolving credit plan at the time the request referred to in this paragraph is received;

2. Identify the real property covered by the mortgage referred to in subsection (2) of this section to which the request relates and give the date, volume and first page of the records of the county clerk where the mortgage is recorded; and

3. Be accompanied by funds sufficient to pay the filing fee for recording the amendment referred to in paragraph (b) of this subsection.

(b) Within ten (10) business days after actual receipt of the request referred to in paragraph (a) of this subsection and of the funds sufficient to pay the filing fee, the lender shall record in the office of the county clerk in which the mortgage referred to in subsection (2) of this section is recorded an amendment to the mortgage reflecting the reduction in the maximum amount of credit at any time or times outstanding which may be extended under the line of credit or revolving credit plan secured by the mortgage.

(c) If within the ten (10) day period the lender fails to record the amendment to the mortgage referred to in paragraph (b) of this subsection, the debtor may record a copy of the written request referred to in paragraph (a) of this subsection upon payment of the same filing fee as provided for in an amendment to a mortgage. If the request complies with all the requirements of this section, the recording of the request shall constitute and be deemed to be an amendment to the line of credit or revolving credit plan and the mortgage to the extent described in the request.

(5) The lender shall be obligated to release the lien of the mortgage referred to in subsection (2) of this section:

(a) If the line of credit or revolving credit plan is closed or terminated in accordance with its terms and all amounts owed by the debtor thereunder are paid in full; or

(b) Upon the written request to release the mortgage signed by all debtors or their agents obligated under the line of credit or revolving credit plan, which notice shall be sent by certified mail, return receipt requested, or physically delivered to the lender. The lender shall file a properly executed satisfaction of the mortgage upon payment of the balance owing under the line of credit or revolving credit plan at the time the request is received. From and after the request, the debtor shall have no right to request or demand that the lender extend credit under the line of credit or revolving credit plan, and the lender shall be released from all obligations and commitments to extend credit thereunder.

(6) The provisions of KRS 382.330, 382.365, 382.430 and 382.520 shall not be applicable to the mortgage referred to in subsection (2) of this section.

(7) This section is not exclusive and shall not prohibit the use of other types of mortgages or other instruments given for the purpose of creating a lien on real property permitted by law.

Section 2. KRS 382.520 is amended to read as follows:

(1) In all cases where a loan is secured by a real estate mortgage, the mortgage originally executed and delivered by the borrower to the lender shall secure payment of all renewals and extensions of the loan and the note evidencing it, whether so provided in the mortgage or not.

(2) The mortgage referred to in subsection (1) of this section may secure any additional indebtedness, whether direct, indirect, existing, future, contingent or otherwise, to the extent expressly authorized by the mortgage, if the mortgage by its terms stipulates the maximum additional indebtedness which may be secured thereby. Except as provided in subsection (3) of this section, the mortgage lien authorized by this subsection shall be superior to any liens or encumbrances of any kind created after recordation of such mortgage, even to the extent of sums advanced by a lender with actual or constructive notice of a subsequently created lien, provided, however, any mortgagee upon receipt of a written request of a mortgagor must release of record the lien to secure additional indebtedness as exceeds the balance of such additional indebtedness at the time of ***the*** [~~such~~] request.

(3) (a) The written request referred to in subsection (2) of this section shall be signed by the mortgagor or his agent or attorney, and shall set forth a description of the real property to which the request relates, the date, parties to, the volume and initial page of the record of the mortgage referred to in subsection (1) of this section, and a description of the nature, amount and holder of the lien or encumbrance which the mortgagor intends to place upon such real property. ***The*** [~~Such~~] request shall be deemed to have been received by the holder of the mortgage referred to in subsection (1) of this section only when delivered to ***the*** [~~such~~] holder by certified mail, return receipt requested, at the address of the holder appearing of record on ***the*** [~~such~~] mortgage or an assignment thereof;

(b) If within ten (10) business days after receipt of the written request referred to in this subsection, the holder of the mortgage referred to in subsection (1) of this section fails to release that amount of the lien to secure additional indebtedness to the extent described in ***the*** [~~such~~] request, the mortgagor may record in the office of the county clerk in which the mortgage referred to in subsection (1) of this section is recorded a copy of ***the*** [~~such~~] written request upon payment of the same filing fee as provided for a release of a mortgage;

(c) If, after a copy of ***the*** [~~such~~] written request is recorded, an advance is made by the holder of the mortgage referred to in subsection (1) of this section, then the lien of ***the*** [~~such~~] mortgage for the unpaid balance of the advance so made shall be subordinate to the lien or encumbrance described in ***the*** [~~such~~] request[~~; provided, that any advance made pursuant to a line of credit shall not be subordinate to the lien or encumbrance described in such request unless such request specifically, and not by implication, describes such line of credit by account or other identifying number and states that any advance thereafter made pursuant to such plan is intended to be subordinated as aforesaid~~].

HB 470, AN ACT relating to pawnbrokers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 226.070 is amended to read as follows:

(1) Every pawnbroker in a city [~~with a population of ten thousand (10,000) or over,~~] or in the unincorporated area of any county shall by 11 a.m. each day, ***make available*** [~~furnish~~] to the chief of police of the city***,*** [~~or~~] the chief law enforcement officer of the county***, or to the Kentucky State Police,*** a true and correct written report of all goods received by him, whether by pawn or purchase, during the twenty-four (24) hours preceding each report. The report shall describe the goods as accurately as practicable.

(2) The chief of police of the city, [~~or~~] the chief law enforcement officer of the county***, or the Kentucky State Police*** shall furnish blanks for the reports required by subsection (1) ***of this section***.

SB 161, AN ACT relating to guaranties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 371.065 is amended to read as follows:

(1) No guaranty ***of an indebtedness*** which ***either*** is not written on***, or does not expressly refer to, the instrument or instruments being guaranteed*** [~~the instrument involved~~] shall be valid or enforceable unless it is in writing signed by the guarantor and contains provisions specifying the amount of the maximum aggregate liability of the guarantor thereunder, and the date on which the guaranty terminates.[~~; provided that such~~] Termination ***of the guaranty on that date*** shall not affect the liability of the guarantor with respect to:

(a)[~~(1)~~] Obligations created or incurred prior to ***the*** [~~such~~] date; or

(b)[~~(2)~~] Extensions or renewals of, interest accruing on, or fees, costs or expenses incurred with respect to, ***the*** [~~such~~] obligations on or after ***the*** [~~such~~] date.

(2) Notwithstanding any other provision of this section, a guaranty may, in addition to the maximum aggregate liability of the guarantor specified therein, guarantee payment of interest accruing on the guaranteed indebtedness, and fees, charges and costs of collecting the guaranteed indebtedness, including reasonable attorneys' fees, without specifying the amount of the interest, fees, charges and costs.

The Committee on Cities reported **HB 10** and **HB 516** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 10, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employes or the county clerk and his employes do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates, it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employe electing coverage only as much service credit as the employe has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employe received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employe has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employe's repayment, the city shall purchase the associated service credit for the employe. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employes electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535; and

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employes who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employes who later elect membership from the participation date of the county to the date the member elects participation. The employe shall pay the employe contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employe and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection.

(e) A county which did not participate by alternate participation may at a later date purchase current service credit for those employes who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employes who later elect membership from the participation date of the county to the date the member elects participation. The employe shall pay the employe contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employe and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and KRS Chapter 96 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410, or any such policemen or fire fighter members employed on or prior to August 1, 1988 who transfer to the county employes retirement system, shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employes at the time of transition were given the option to join the system shall not be required to offer said employes a second option to join the system.

(8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by social security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the county employes retirement system for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

HB 516, AN ACT relating to fireworks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, unless the context requires otherwise, "approved fireworks list" means the document published annually by the state fire marshal which lists the legal fireworks approved under this chapter for use in the calendar year in which the document specifies.

(2) "Approved name" means the name given to and labeled upon an item by a manufacturer or distributor, and which has been submitted to the state fire marshal and approved by him for inclusion on the list of approved fireworks.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department of Housing, Buildings and Construction shall adopt and the state fire marshal shall enforce reasonable regulations to provide for the safe storage and sale of fireworks and to carry out the purposes of this chapter.

(2) All fees collected pursuant to this Act shall be paid to the State Treasury and credited to a trust and agency account to be used by the commissioner to carry out the purposes of this Act. Any money remaining in the trust and agency account at the end of a fiscal year shall not lapse or revert to the general fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the sale, offering for sale, possessing, storing, or use within this state of any items described in KRS 227.702(1) or KRS 227.704, sufficient samples of items specified in this Act shall be submitted by the wholesaler or distributor to the state fire marshal, U.S. 127 South, Frankfort, Kentucky 40601, for inspection and approval, along with a laboratory report from the manufacturer or other agency recognized for this analysis by the state fire marshal.

(2) The laboratory report shall be a qualitative chemical analysis of each sample item submitted and shall specify every chemical and substance used in the manufacture of the fireworks, along with amounts of the substances by weight.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) Prior to September 1 of each year, every wholesaler or distributor shall submit to the state fire marshal for approval samples of each item not on the current approved fireworks list, together with its laboratory analysis report. The state fire marshal's office may conduct field tests to determine the content and performance characteristics of the submitted items, and shall publish a list of approved items as set forth in subsection (2) of this section.

(2) By November 1 of each calendar year, the state fire marshal or his authorized designee shall determine if the submitted samples comply with KRS 227.700, 227.702(1) and 227.704. If the sample does comply, he shall approve the item by name and place it upon the approved fireworks list for the following calendar year (January 1 through December 31). The approved list shall constitute a certificate of compliance for each item listed and the list shall be supplied to all wholesalers, distributors, and retailers registered with the state fire marshal. No items described in KRS 227.702(1) or 227.704 shall be sold, offered for sale, or used in this state without the approval of the state fire marshal as evidenced by the approved fireworks list.

(3) A copy of the approved fireworks list for the current year shall be posted in every location where fireworks are offered for sale, and the list shall be so positioned as to be readily recognized by law enforcement authorities and the general public.

(4) The approved fireworks list shall be revised annually by the state fire marshal. Prior to offering fireworks, novelties, or trick noisemakers for sale in this state, certificates of compliance shall be renewed annually by the wholesaler or distributor upon filing an application no later than September 1 which lists all previously approved items which are intended to be sold by the wholesaler or distributor in the following calendar year. Proposed new items shall comply with subsection (1) of this section.

(5) If the samples of new items do not comply with KRS 227.700, 227.702(1), and 227.704, the state fire marshal shall notify the wholesaler or distributor of the reasons for his refusal to issue a certificate of compliance for this item. Refusal may be appealed by requesting a hearing before the state fire marshal or his appointed hearing officer as authorized by KRS Chapter 227.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) All shipping cases or cartons containing any item listed on the approved fireworks list that is sold, offered for sale, possessed, stored, or used in Kentucky shall have the name of the item conspicuously labeled on it so as to be readily recognized by law enforcement authorities and the general public.

(2) All packages containing unlabeled items, all items shipped; or all items to be sold individually, shall bear the exact name appearing upon the approved fireworks list indelibly and legibly imprinted on them by the manufacturer, importer, exporter, wholesaler, or distributor.

(3) No person, firm, or corporation shall reproduce, alter, deface, transfer, or use the state fire marshal's name on any item which has not been approved by the state fire marshal in compliance with this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) Willful failure of any assembler, manufacturer, wholesaler, or distributor to obtain the certificate of compliance, or to properly label shipping cases or cartons, packages, or individual items, as required in this chapter, shall subject that person, firm or corporation to suspension or revocation of the certificate of compliance.

(2) Any person, firm, or corporation who sells at retail, or offers, advertises, or exposes for sale at retail or uses or explodes any prohibited fireworks; any person, firm or corporation who sells at retail, or offers, advertises, or exposes for sale at retail any device containing explosive substance without the shipping cartons, packages, and individual items properly labeled in accordance with this chapter; or any person, firm, or corporation who knowingly induces another to violate any provision of this chapter shall be subject to the criminal penalties as provided in KRS 227.990.

(3) The state fire marshal or his authorized designee may exercise any power or authority he has under KRS Chapter 227 to properly enforce and administer this Act. If the state fire marshal has reason to believe a previously approved item does not conform to the content and performance standards required by this chapter, he may order the certificate of compliance withdrawn and remove the item from the approved fireworks list, after notice and hearing, pursuant to the procedures provided in KRS Chapter 227. If the fire marshal proposes to remove an item from the approved fireworks list, he shall give notice of that proposal prior to January 1 of the year for which the list shall apply.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) No person, firm, or corporation shall sell any fireworks, approved novelties, or trick noisemakers to any person under the age of sixteen (16) years.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) No person, firm, or corporation shall be deemed to be a wholesaler, dealer, jobber, or resident manufacturer and no person, firm, or corporation shall sell or distribute at wholesale within the Commonwealth any fireworks, novelties, or trick noisemakers as defined by this chapter, unless the person, firm, or corporation is registered with the state fire marshal as a wholesaler and has paid an annual fee of one thousand dollars ($1,000) for the registration.

(2) No person, firm, or corporation shall operate a retail outlet within the Commonwealth for the sale of any fireworks, novelties, or trick noisemakers as defined by this chapter, unless the person, firm, or corporation is registered with the state fire marshal as a retailer and has paid an annual fee of ten dollars ($10) for the registration of each location where fireworks, novelties, or trick noisemakers are offered for sale.

(3) A wholesaler registered under subsection (1) of this section may make application to register any retail outlet location by supplying to the state fire marshal the name and address of each location, together with the ten dollar ($10) annual fee for each location.

Section 9. KRS 227.710 is amended to read as follows:

No person, firm, co-partnership, or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell, possess, use, or explode any fireworks, except as hereinafter provided:

(1) In cities the chief of the fire department, or mayor or similar official where there is no fire department, and in counties outside of cities the county judge/executive, shall have power to grant permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals. Every [~~such~~] display shall be handled by a competent operator [~~to be~~] approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of *the* [~~such~~] official, after proper inspection, shall not be hazardous to property or endanger any person. Applications for permits shall be filed with the office of state fire marshal at least fifteen (15) days in advance of the date of the display. After *the* [~~such~~] privilege *has* [~~shall have~~] been granted,

sales, possession, use and distribution of fireworks for ***the*** [~~such~~] display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(2) The sale, at wholesale, of any fireworks for supervised displays by any resident manufacturer, wholesaler, dealer, or jobber, ***shall be*** in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco and Firearms ***and shall be made to the operator who possesses a permit granted under KRS 227.710(1).***

(3) The sale, at wholesale, of any kind of fireworks by any resident manufacturer, wholesaler, dealer, or jobber, ***if the*** [~~provided such~~] fireworks are intended for shipment directly out of state in accordance with regulations of the U.S. Department of Transportation.

(4) The sale, and use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation and highway use.

(5) The use of fuses and railway torpedoes by railroads.

(6) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.

(7) The use of any pyrotechnic device by military organizations.

(8) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or any equivalent or local agency.

Section 10. KRS 227.990 is amended to read as follows:

(1) Except for mobile homes manufactured under the federal act, any person who violates any provision of this chapter or any provision of a lawful order, rule or regulation made under the provisions of this chapter, or who induces another to violate any provisions of this chapter or of any lawful order, rule or regulation made thereunder, upon conviction thereof shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000), or confined in the county jail for not more than sixty (60) days, or both. Each day such violations exist shall, in the discretion of the courts, be considered as a separate offense.

(2) Any person who, for mobile homes manufactured under the federal act, violates any provision of the federal act or of KRS 227.550 to 227.660 or any regulation or final order issued thereunder shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each such violation. Each violation of a provision of KRS 227.550 to 227.660 or of the federal act or any regulation or order issued thereunder shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one (1) year from the date of the first violation.

(3) Any individual, or a director, officer or agent of a corporation who knowingly and wilfully violates the federal act or KRS 227.550 to 227.660 in a manner which threatens the health or safety of any purchaser shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year in the county jail, or both.

(4) Any person violating the provisions of KRS ***227.700 to 227.790*** [~~227.702 to 227.750~~], the regulations issued thereunder, or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than thirty (30) days, or both.

Section 11. The following KRS section is repealed:

227.740 Samples of exempted novelties to be approved by state fire marshal before sale — Labeling.

The Committee Substitute to **HB 516** is as follows:

HB 516, AN ACT relating to fireworks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, unless the context requires otherwise, "approved fireworks list" means the document published annually by the state fire marshal which lists the legal fireworks approved under this chapter for use in the calendar year in which the document specifies.

(2) "Approved name" means the name given to and labeled upon an item by a manufacturer or distributor, and which has been submitted to the state fire marshal and approved by him for inclusion on the list of approved fireworks.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department of Housing, Buildings and Construction shall adopt and the state fire marshal shall enforce reasonable regulations to provide for the safe storage and sale of fireworks and to carry out the purposes of this chapter.

(2) All fees collected pursuant to this Act shall be paid to the State Treasury and credited to a trust and agency account to be used by the commissioner to carry out the purposes of this Act. Any money remaining in the trust and agency account at the end of a fiscal year shall not lapse or revert to the general fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the sale, offering for sale, or use within this state, or possessing or storing with intent to sell or use within this state, of any items described in KRS 227.702(1) or KRS 227.704, sufficient samples of items specified in this Act shall be submitted by the wholesaler or distributor to the state fire marshal, U.S. 127 South, Frankfort, Kentucky 40601, for inspection and approval, along with a laboratory report from the manufacturer or other agency recognized for this analysis by the state fire marshal.

(2) The laboratory report shall be a qualitative chemical analysis of each sample item submitted and shall specify every chemical and substance used in the manufacture of the fireworks, along with amounts of the substances by weight.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) Prior to September 1 of each year, every wholesaler or distributor shall submit to the state fire marshal for approval samples of each item not on the current approved fireworks list, together with its laboratory analysis report. The state fire marshal's office may conduct field tests to determine the content and performance characteristics of the submitted items, and shall publish a list of approved items as set forth in subsection (2) of this section.

(2) By November 1 of each calendar year, the state fire marshal or his authorized designee shall determine if the submitted samples comply with KRS 227.700, 227.702(1) and 227.704. If the sample does comply, he shall approve the item by name and place it upon the approved fireworks list for the following calendar year (January 1 through December 31). The approved list shall constitute a certificate of compliance for each item listed and the list shall be supplied to all wholesalers, distributors, and retailers registered with the state fire marshal. No items described in KRS 227.702(1) or 227.704 shall be sold, offered for sale, or used in this state without the approval of the state fire marshal as evidenced by the approved fireworks list.

(3) A copy of the approved fireworks list for the current year shall be posted in every location where fireworks are offered for sale, and the list shall be so positioned as to be readily recognized by law enforcement authorities and the general public.

(4) The approved fireworks list shall be revised annually by the state fire marshal. Prior to offering fireworks, novelties, or trick noisemakers for sale in this state, certificates of compliance shall be renewed annually by the wholesaler or distributor upon filing an application no later than September 1 which lists all previously approved items which are intended to be sold by the wholesaler or distributor in the following calendar year. Proposed new items shall comply with subsection (1) of this section.

(5) If the samples of new items do not comply with KRS 227.700, 227.702(1), and 227.704, the state fire marshal shall notify the wholesaler or distributor of the reasons for his refusal to issue a certificate of compliance for this item. Refusal may be appealed by requesting a hearing before the state fire marshal or his appointed hearing officer as authorized by KRS Chapter 227.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) All shipping cases or cartons containing any item listed on the approved fireworks list that is sold, offered for sale, possessed, stored, or used in Kentucky shall have the name of the item conspicuously labeled on it so as to be readily recognized by law enforcement authorities and the general public.

(2) All packages containing unlabeled items, all items shipped, or all items to be sold individually shall bear the exact name appearing upon the approved fireworks list indelibly and legibly imprinted on them by the manufacturer, importer, exporter, wholesaler, or distributor.

(3) No person, firm, or corporation shall reproduce, alter, deface, transfer, or use the state fire marshal's name on any item which has not been approved by the state fire marshal in compliance with this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) Willful failure of any assembler, manufacturer, wholesaler, or distributor to obtain the certificate of compliance, or to properly label shipping cases or cartons, packages, or individual items, as required in this chapter, shall subject that person, firm or corporation to suspension or revocation of the certificate of compliance.

(2) Any person, firm, or corporation who sells at retail, or offers, advertises, or exposes for sale at retail or uses or explodes any prohibited fireworks; any person, firm or corporation who sells at retail, or offers, advertises, or exposes for sale at retail any device containing explosive substance without the shipping cartons, packages, and individual items properly labeled in accordance with this chapter; or any person, firm, or corporation who knowingly induces another to violate any provision of this chapter shall be subject to the criminal penalties as provided in KRS 227.990.

(3) The state fire marshal or his authorized designee may exercise any power or authority he has under KRS Chapter 227 to properly enforce and administer this Act. If the state fire marshal has reason to believe a previously approved item does not conform to the content and performance standards required by this chapter, he may order the certificate of compliance withdrawn and remove the item from the approved fireworks list, after notice and hearing, pursuant to the procedures provided in KRS Chapter 227. If the fire marshal proposes to remove an item from the approved fireworks list, he shall give notice of that proposal prior to January 1 of the year for which the list shall apply.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) No person, firm, or corporation shall sell any fireworks, approved novelties, or trick noisemakers to any person under the age of sixteen (16) years.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227.700 TO 227.790 IS CREATED TO READ AS FOLLOWS:

(1) No person, firm, or corporation shall be deemed to be a wholesaler, dealer, jobber, or resident manufacturer and no person, firm, or corporation shall sell or distribute at wholesale within the Commonwealth any fireworks, novelties, or trick noisemakers as defined by this chapter, unless the person, firm, or corporation is registered with the state fire marshal as a wholesaler and has paid an annual fee of one thousand dollars ($1,000) for the registration.

(2) No person, firm, or corporation shall operate a retail outlet within the Commonwealth for the sale of any fireworks, novelties, or trick noisemakers as defined by this chapter, unless the person, firm, or corporation is registered with the state fire marshal as a retailer and has paid an annual fee of ten dollars ($10) for the registration of each location where fireworks, novelties, or trick noisemakers are offered for sale.

(3) A wholesaler registered under subsection (1) of this section may make application to register any retail outlet location by supplying to the state fire marshal the name and address of each location, together with the ten dollar ($10) annual fee for each location.

Section 9. KRS 227.710 is amended to read as follows:

No person, firm, co-partnership, or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell, possess, use, or explode any fireworks, except as hereinafter provided:

(1) In cities the chief of the fire department, or mayor or similar official where there is no fire department, and in counties outside of cities the county judge/executive, shall have power to grant permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals. Every [~~such~~] display shall be handled by a competent operator [~~to be~~] approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of ***the*** [~~such~~] official, after proper inspection, shall not be hazardous to property or endanger any person. Applications for permits shall be filed with the office of state fire marshal at least fifteen (15) days in advance of the date of the display. After ***the*** [~~such~~] privilege ***has*** [~~shall have~~] been granted,

sales, possession, use and distribution of fireworks for ***the*** [~~such~~] display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(2) The sale, at wholesale, of any fireworks for supervised displays by any resident manufacturer, wholesaler, dealer, or jobber; ***shall be*** in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco and Firearms ***and shall be made to the operator who possesses a permit granted under KRS 227.710(1).***

(3) The sale, at wholesale, of any kind of fireworks by any resident manufacturer, wholesaler, dealer, or jobber, ***if the*** [~~provided such~~] fireworks are intended for shipment directly out of state in accordance with regulations of the U.S. Department of Transportation.

(4) The sale, and use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation and highway use.

(5) The use of fuses and railway torpedoes by railroads.

(6) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.

(7) The use of any pyrotechnic device by military organizations.

(8) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or any equivalent or local agency.

Section 10. KRS 227.990 is amended to read as follows:

(1) Except for mobile homes manufactured under the federal act, any person who violates any provision of this chapter or any provision of a lawful order, rule or regulation made under the provisions of this chapter, or who induces another to violate any provisions of this chapter or of any lawful order, rule or regulation made thereunder, upon conviction thereof shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000), or confined in the county jail for not more than sixty (60) days, or both. Each day such violations exist shall, in the discretion of the courts, be considered as a separate offense.

(2) Any person who, for mobile homes manufactured under the federal act, violates any provision of the federal act or of KRS 227.550 to 227.660 or any regulation or final order issued thereunder shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each such violation. Each violation of a provision of KRS 227.550 to 227.660 or of the federal act or any regulation or order issued thereunder shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one (1) year from the date of the first violation.

(3) Any individual, or a director, officer or agent of a corporation who knowingly and wilfully violates the federal act or KRS 227.550 to 227.660 in a manner which threatens the health or safety of any purchaser shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year in the county jail, or both.

(4) Any person violating the provisions of KRS ***227.700 to 227.790*** [~~227.702 to 227.750~~], the regulations issued thereunder, or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than thirty (30) days, or both.

Section 11. The following KRS section is repealed:

227.740 Samples of exempted novelties to be approved by state fire marshal before sale — Labeling.

Calendar

HB 285, HB 288, HB 347, HB 382, HB 417, HB 419, HB 449, HB 489, HB 493, HB 496 and **HJR 105** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Freibert moved to suspend the rules for the purpose of allowing floor privileges to a former member of the House, U. S. Congressman Larry Hopkins. Agreed.

Representative Stumbo moved that the rules be suspended for the purpose of Congressman Hopkins to address the House of Representatives. Agreed.

Orders of the Day

HB 386 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HB 386** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 15, 1990 roll call on **HB 386** - Appendix.)

HB 386 was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 386** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 39, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Floor Amendment No. 1 to **HB 39**. Rejected.

Representative Siler moved that **HB 39** be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See February 15, 1990 roll call on **HB 39** - Appendix.)

HB 39 was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 39** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 150** and **SB 173**.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 53**, **SB 54**, **SB 56**, **SB 59**, **SB 61**, **SB 126**, **SB 127** and **SB 128** have been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:39 p.m.)

Orders of the Day (Continued)

HB 53, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved the adoption of Floor Amendment No. 2 to **HB 53**. Agreed.

Representative J. Harper moved that **HB 53**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 15, 1990 roll call on **HB 53** - Appendix.)

HB 53, as amended, was passed and the title agreed to.

Representative J. Harper moved that the vote by which **HB 53**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 372**. Agreed.

Representative Cyrus moved that **HB 372**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See February 15, 1990 roll call on **HB 372** - Appendix.)

HB 372, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 372**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 373, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 373**. Agreed.

Representative Cyrus moved that **HB 373**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 15, 1990 roll call on **HB 373** - Appendix.)

HB 373, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 373**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 245, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Committee Amendment No. 1 to **HB 245**. Agreed.

Representative L. Clark moved that **HB 245**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 15, 1990 roll call on **HB 245** - Appendix.)

HB 245, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 245**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 247, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Committee Amendment No. 1 to **HB 247**. Agreed.

Representative L. Clark moved the adoption of Floor Amendment No. 1 to **HB 247**. Agreed.

Representative L. Clark moved that **HB 247**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 15, 1990 roll call on **HB 247** - Appendix.)

HB 247, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 247**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 272, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Substitute to **HB 272**. Agreed.

Representative Richards moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 272**. Agreed.

Representative Richards moved that **HB 272**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 15, 1990 roll call on **HB 272** - Appendix.)

HB 272, by way of Committee Substitute as amended, was passed.

Representative Richards moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 272**. Agreed; and the title was agreed to.

Representative Richards moved that the vote by which **HB 272**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 301, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Substitute to **HB 301**. Agreed.

Representative Kerr moved that **HB 301**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 15, 1990 roll call on **HB 301** - Appendix.)

HB 301, by way of Committee Substitute, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 301**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 310 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hourigan moved that **HB 310** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 15, 1990 roll call on **HB 310** - Appendix.)

HB 310 was passed and the title agreed to.

Representative Hourigan moved that the vote by which **HB 310** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 342, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of Committee Substitute to **HB 342**. Agreed.

Representative Mack moved that **HB 342**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 15, 1990 roll call on **HB 342** - Appendix.)

HB 342, by way of Committee Substitute, was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 342**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 365, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Substitute to **HB 365**. Agreed.

Representative Kerr moved that **HB 365**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 15, 1990 roll call on **HB 365** - Appendix.)

HB 365, by way of Committee Substitute, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 365**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 388 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that **HB 388** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 15, 1990 roll call on **HB 388** - Appendix.)

HB 388 was passed and the title agreed to.

Representative P. Richardson moved that the vote by which **HB 388** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 394, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Committee Amendment No. 1 to **HB 394**. Agreed.

Representative Ford moved the adoption of Floor Amendment No. 1 to **HB 394**. Agreed.

Representative Ford moved that **HB 394**, as amended, be passed.

On the roll call the vote was: Yeas 64, Nays 25. (See February 15, 1990 roll call on **HB 394** - Appendix.)

HB 394, as amended, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 394**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 422 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved that **HB 422** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See February 15, 1990 roll call on **HB 422** - Appendix.)

HB 422 was passed and the title agreed to.

Representative Hatcher moved that the vote by which **HB 422** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 424 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 424** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 15, 1990 roll call on **HB 424** - Appendix.)

HB 424 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 424** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 456 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **HB 456** be passed.

On the roll call the vote was: Yeas 54, Nays 39. (See February 15, 1990 roll call on **HB 456** - Appendix.)

HB 456 was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 456** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 484 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 484** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 15, 1990 roll call on **HB 484** - Appendix.)

HB 484 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 484** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 130**:

HR 130, A RESOLUTION adjourning in memory and honor of Charlie Butler.

WHEREAS, Charlie Butler, a native of Grayson County, Kentucky, was born on April 23, 1908, and traversed these earthly bounds on February 12, 1990; and

WHEREAS, Charlie Butler was the son of the late John Allen Butler and Nancy Elizabeth Carter Butler; and

WHEREAS, Charlie Butler was a retired woodworking machinist, a veteran of World War II, and a member of Chapel Park Baptist Church in Louisville, Kentucky; and

WHEREAS, Charlie Butler was the loving father of Marvin Butler, who preceded him in death; Representative Denver Butler; Howard Butler; and Mildred Kuckenbroad; the grandfather of 15 grandchildren, and 19 great-grandchildren; and

WHEREAS, the passing of Charlie Butler has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement and loss upon the passing of Charlie Butler.

Section 2. That when the House of Representatives adjourns this day, Thursday, February 15, 1990, it does so in honor and memory of Charlie Butler.

Section 3. That the Clerk of the House is directed to transmit three copies of this resolution to Representative Denver Butler, 1533 Southgate Avenue, Louisville, Kentucky 40215.

HR 130 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 130**.

On the roll call the vote was yeas 97—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills

HB 613, by Representative Priddy: AN ACT relating to retirement.

HB 614, by Representative Ackerson: AN ACT relating to attorney's fees.

HB 615, by Representatives Ark and Layman: AN ACT relating to candidates for municipal office.

HB 616, by Representative Worthington: AN ACT relating to the merger of contiguous cities.

HB 617, by Representatives Moberly, Barrows, T. Jones and Geveden: AN ACT relating to a groundwater monitoring network and making an appropriation therefor.

HB 618, by Representatives Moberly, Barrows and T. Jones: AN ACT relating to environmental policy.

HB 619, by Representative Morris: AN ACT relating to state government and declaring an emergency.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 349**, **HB 363**, **HB 477**, **HB 480**, **HB 507**, **HB 508**, **HB 537**, **HB 540**, **HB 554**, **HB 573**.

Natural Resources and Environmental Protection: **HB 58, HB 291, HB 312, HB 497, HB 517, HB 519, HB 562.**

Banking and Insurance: **HB 426.**

State Government: **HB 525, HB 544, HCR 109, SB 35, SB 38, SB 108, SB 135, SB 176, SB 185, SCR 1, SCR 11.**

Economic Development and Tourism: **HB 428.**

Report of Committees

The Committee on Banking and Insurance reported **HB 532** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 532, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsection (2) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest ***on these items*** [~~thereon~~], buying and selling exchange, coin and bullion and lending money on personal or real security.

(2) Any corporation presently or ***after the effective date of this Act*** [~~hereafter~~] engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner for permission to establish[~~, within the city in which either the principal office or an existing branch office which has been annexed into the city or acquired by merger is located and, subject to the limitation hereinafter imposed,~~] within the county in which its principal office is located a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and ***promoted*** [~~prompted thereby~~] and that there is reasonable probability of the successful operation of ***the*** [~~such~~] branch based upon the financial and managerial impact of the branch on the bank establishing the branch. No [~~such~~] branch shall be authorized or approved by the commissioner unless all of the following are complied with:

(a) No [~~such~~] corporation having a combined capital and surplus of less than one hundred thousand dollars ($100,000) shall be permitted to establish any branch. Any corporation applying for permission to establish a branch shall be required to have a minimum combined capital and surplus for each branch applied for in accordance with the following table:

If the principal office is located in:

1. An unincorporated area or in a city of 7,999 population or less $100,000

2. City with population of 8,000 to 19,999 . . . . $200,000

3. City with population of 19,999 and over one (1) branch may be authorized for every two hundred fifty thousand dollars ($250,000) of capital and surplus.

The [~~Said~~] population is to be determined by the last census or any future census of the United States;

(b) [~~No such corporation shall be permitted to establish a branch in any incorporated city, other than in the city in which either the principal office or an existing branch office which has been annexed into the city or acquired by merger is located, in which there is an existing bank. Nor shall any such corporation be permitted to establish a branch in any unincorporated area within a radius of one (1) mile of an existing bank located in such unincorporated area. As used in this subsection, an "existing bank" shall mean the principal office of a bank as distinguished from a branch thereof;~~

~~(c)~~] The permission to open a branch shall lapse one (1) year after the commissioner has rendered a final order, as defined in KRS 287.062, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for ***any*** [~~whatever~~] period of time he deems to be necessary; and

(c)[~~(d)~~] An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.

(3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank, may continue to retain and operate the ***agency or branch bank*** [~~same~~] under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any [~~such~~] existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of ***the*** [~~such~~] banks, nor to prohibit the sale of any bank to, and the purchase [~~thereof~~] by, any other bank in the same county and the operation of ***the*** [~~such~~] bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by ***the*** [~~such~~] operation, and provided further that, at the time of ***the*** [~~such~~] merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more. The bank which does not survive the merger must surrender its charter.

(5) Any national banking association or any state bank member of the federal reserve system whose principal office is located in this state ***may*** [~~is hereby authorized to~~] do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of ***these*** [~~such~~] powers.

(6) When a branch or agency bank has once been established any operation ***of the branch or agency bank*** [~~thereof~~] shall not be discontinued, and ***the*** [~~said~~] branch or agency bank shall not be closed until after ninety (90) days' notice in writing to the commissioner. In the discretion of the commissioner ***the*** [~~said~~] branch or agency bank proposing to discontinue operation may be required to give notice of the date when ***its*** [~~such~~] operation will cease.

Section 2. KRS 287.185 is amended to read as follows:

(1) No branch or principal office of any bank shall be moved from one location to another without the approval of the commissioner. Before the commissioner shall approve or disapprove any [~~such~~] change of location he shall ascertain and determine that the public convenience and advantage will be served and ***promoted*** [~~prompted thereby~~] and that there is a reasonable probability of the successful operation of ***the*** [~~such~~] branch or principal office at the new location.

(2) If a bank wishes to move its principal office from one location to another ***in the same county*** and retain its former principal office as a branch, the provisions of subsection (1) of this section shall be followed in regard to approval of the change of location. A final order by the commissioner approving or disapproving the change of location shall be deemed to constitute a similar approval or disapproval of the former principal office as a branch, and no further administrative proceedings shall be necessary. [~~In no event shall the restrictions contained in KRS 287.180 as to where a branch may be located apply so as to prevent the approval of a former principal office as a branch in the manner provided for by this subsection.~~

~~(3) If the location of a branch or principal office is changed in the manner provided by either subsection (1) or (2) of this section, and if the new location of the branch or principal office is to be outside the corporation limits of the city in which it was formerly located, such new location of the branch or principal office must comply with the restrictions set out in KRS 287.180(2)(b). If a branch or principal office was formerly located in an unincorporated area and the new branch or principal office is to be located more than one (1) mile from the former branch or principal office, such new location of the branch or principal office must comply with the restrictions set out in KRS 287.180(2)(b).~~]

Representative Napier moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Napier moved the adoption of the following Legislative Citation No. 39. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and recognizes Warren A. May for his cultural contributions to the Commonwealth. As a gifted artist and craftsman, Warren A. May has enhanced the cultural experience of those touched by his unique talents. With his skills in folk arts and crafts, Warren A. May has perfected the traditional Appalachian Mountain Dulcimers and has used this fine handcraft in promoting Kentucky. Warren A. May, owner of The Upstairs Gallery in Berea, has served as an inspiration to developing the talents of Kentucky in folk arts and crafts.

The members of the Kentucky House of Representatives join Representative Lonnie Napier in saluting Warren A. May.

Representative Stumbo moved that **HB 156** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 247** and **HB 272**. Agreed.

Representative Heleringer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Heleringer moved that he be recorded as voting "yea" on **HB 39**. Agreed.

Representative T. Jones moved the rules be suspended for the purpose of recording votes. Agreed.

Representative T. Jones moved that he be recorded as voting "yea" on **HCR 6, HCR 75, HB 311, HB 369, HB 73, SB 126, SB 127, SB 128** and "nay" on **HB 438**. Agreed.

Representative Zimmerman moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Zimmerman moved that he be recorded as voting "yea" on **HB 272**. Agreed.

Representative Layman moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Layman moved that he be recorded as voting "yea" on **HB 39**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 158**, by Representative Johnson:

Amend printed copy of **HB 158** on page 2, line 2, after "*(4)*" by inserting the following:

"***or any home, facility, institution, lodging, or other establishment however named, operated by a religious organization***".

Floor Amendment No. 1 to **HB 400**, by Representative B. Smith:

Amend printed copy of **HB 400** on page 7, line 23, delete "***usefulness***" and substitute therefore "***suitability***"; and

On page 7, line 24, delete "***for its intended purpose***".

On page 8, line 20, after the "." add the following: "***No farmer-owned exempt commodity shall be subject to a fee.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 67**, by Representative Worthington:

Amend printed copy of Committee Substitute for **HB 67** on page 1, after the enacting clause by deleting all the text of the bill and substituting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is established a special trust fund in the treasury of the Commonwealth to be known as the "environmental trust fund", to be used for the purpose of conducting and funding environmental research, research and development projects, and environmental education programs as approved by the board established in Section 3 of this Act that assist in implementing the policies and purposes of this chapter.

(2) All money collected for the environmental trust fund shall be deposited by the state treasurer into an interest-bearing account and all interest accrued shall be credited to the fund.

(3) Money unexpended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year or biennium for future use.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The environmental trust fund may be used to support scientific, technical, or environmental research needed to develop and guide environmental protection and natural resource management policies. Research topics may include but shall not be limited to air quality; water quality, including groundwater protection; water resource management; environmental impacts of natural resource extractions, including surface mining and oil and gas production; waste management, including solid and hazardous waste; environmental impact of noise; soil conservation; and forest resource management. Research activities may include collecting baseline environmental data and studying environmental problems existing in or of concern to the Commonwealth.

(2) The environmental trust fund may be used to finance research and development projects that promote the use of innovative solutions to environmental problems existing in or of concern to the Commonwealth. Research and development projects shall have cosponsors who will cooperate in the gathering and sharing of research data. Cosponsors may include but shall not be limited to local governments, universities, state agencies, nonprofit organizations, and private persons.

(3) The environmental trust fund may be used to collect and disseminate information derived from any activities conducted pursuant to this Act.

(4) The environmental trust fund may be used to support educational and training programs relating to the protection of the environment.

(5) The board created in Section 3 of this Act shall take into consideration state and federal moneys available for projects prior to expending money in the environmental trust fund.

(6) The environmental trust fund shall not be used to support or finance the routine day-to-day activities and responsibilities of the Natural Resources and Environmental Protection Cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Environmental Board is established, which shall control and manage the environmental trust fund. The board shall be composed of nine (9) members as follows: the secretary of the Natural Resources and Environmental Protection Cabinet, the secretary of the Economic Development Cabinet, and the seven (7) members of the Environmental Quality Commission. The board members shall elect the chairman.

(2) The board shall meet at least once each calendar quarter or more often on the call of the chairman.

(3) No member of the board shall receive any salary, fee, or other remuneration for services as a member of the board but each member shall be reimbursed for travel expenses incurred in the performance of duties as a board member.

(4) The staff of the Environmental Quality Commission shall serve as staff for the board.

(5) The cabinet may provide legal representation to the board or the board may enter into personal service contracts pursuant to KRS Chapter 45 to obtain legal counsel.

(6) Six (6) members of the board shall constitute a quorum for conducting business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

(7) The staff of the Environmental Quality Commission shall annually prepare a proposed program and a list of projects for public comment and review for the board's consideration.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Environmental Board shall have the following powers and duties:

(1) The board shall authorize and administer all expenditures from the environmental trust fund.

(2) The board shall set a research agenda for the research, and research and development projects, in implementing the policies and purposes of this Act.

(3) The board may conduct and fund environmental education programs that assist in implementing the policies and purposes of this Act.

(4) The board may contract with any state agency, federal agency, local government, university, nonprofit organization or private person to further the purposes of this Act.

(5) The board may award grants to further the purposes of this Act.

(6) The board may solicit, receive and consider proposals from any state agency, federal agency, local government, university, nonprofit organization or private person which further the purposes of this Act.

(7) The board may solicit and accept money by grant, gift, donation, bequest or other conveyance to be credited to the environmental trust fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The board shall, prior to carrying out the research agenda which has been set pursuant to Section 4(2) of this Act, submit the agenda to the University of Kentucky Water Resources Research Institute.

(2) Pursuant to KRS 164.125 providing that the University of Kentucky shall be the principal state institution for the conduct of statewide research, the Water Resources Research Institute at the University of Kentucky shall review the research agenda set by the board. The Institute shall advise the board on implementing the research agenda by utilizing on a statewide basis all of the state educational institutions, including the community college system, local and state government agencies and private nonprofit organizations. The Institute shall also, on behalf of the board, provide routine evaluation of the ongoing research, make periodic reports to the board, provide peer review for all the final reports and serve as an archive for all completed research data and reports.

(3) The board shall implement the research agenda pursuant to the advice of the Water Resources Research Institute.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The fund shall be used only for the purposes expressed in this Act."

Floor Amendment No. 1 to the Committee Substitute to **HB** 242, by Representative Worthington:

Amend printed copy of Committee Substitute to **HB** 242 on page 2, delete lines 18 through 26 and insert in lieu thereof the following: "***(c) Fifty percent (50%) of the bicentennial celebration fund, less the cost of the design and production of the "bicentennial" license plates and renewal decals which shall be paid for subject to the provisions of Section 6 of this Act, shall be allocated to the counties of this Commonwealth as provided for in this subsection. No funds shall be distributed to a local bicentennial board until the board has obtained matching funds equal to the amount of the allocation being offered by the commission. The fifty percent (50%) of the bicentennial celebration fund shall be allocated to the counties of this Commonwealth as follows:***

1. One third (1/3) of the fifty percent (50%) shall be allocated in equal shares to each county; and

2. One third (1/3) of the fifty percent (50%) shall be allocated to each county on the basis of each county's population percentage of the Commonwealth's total population; and

3. One third (1/3) of the fifty percent (50%) shall be allocated to each county of this Commonwealth on the basis of each county's per capita income (inverse order).

Floor Amendment No. 1 to **SB** 4, by Representative Napier:

Amend printed copy of General Assembly copy of **SB** 4 on page 1, line 3, after the word "annuities," insert the following:

"***all private retirement annuities as defined in Title 26 of the U.S. Code,***".

The Clerk announced the following meetings:

The Committee on Energy at 8:30 a.m., February 16, 1990.

The Committee on Appropriations and Revenue, upon adjournment, February 16, 1990.

The Committee on State Government at 2:00 p.m., February 20, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, February 16, 1990.

On the roll call the vote was yeas 78—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, Hatcher, Hourigan, Jackson, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Lyne, Mack, Maggard, Mason, McBee, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 3—Bronger, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 16, 1990

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Mike Carruthers, Clays Mill Road Baptist Church, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives B. Smith and R. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 15, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 207, SB 223, SCR 55** and **HB 2.**

Introduction of Bills and Resolutions

HB 620, by Representatives Curtsinger, Strong, Freibert, Noland and Scorsone: AN ACT relating to water supply protection.

HB 621, by Representatives Walker, Deskins, B. Richardson, Kerr, Jensen, A. Jones, Heleringer and Johnson: AN ACT relating to limitations of actions.

HB 622, by Representatives Farrow, Crupper, Ballard, Jackson, Blevins and Castleman: AN ACT relating to the Kentucky State Police Legal Defense Fund and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Banking and Insurance: **SB 150.**

Cities: **HB 613, HB 615, HB 616.**

Counties and Special Districts: **HB 608, HB 611.**

Education: **HB 612.**

Judiciary: **SB 173, HB 609, HB 614.**

Natural Resources and Environmental Protection: **HB 617, HB 618.**

State Government: **HB 610, HB 619.**

Report of Committees

The Committee on Rules reported **HB 59, HB 108, HB 231, HB 285, HB 288, HB 339, HB 344, HB 347, HB 358, HB 371, HB 375, HB 376, HB 417, HB 419, HB 449** and **HJR 68** have been posted for passage in Orders of the Day, February 20, 1990.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 132, HB 489.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 431, HB 560, SB 6, SB 7, SB 8, SB 18.**

Health and Welfare: **HB 121, HB 122, HB 164, HB 485, HB 523, HCR 110.**

Labor and Industry: **HB 561, HB 591, HCR 126.**

Report of Committees

The Committee on Energy reported **HB 398**, **HB 494** and **SB 122** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 398, AN ACT relating to the taxation of motor fuels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.500, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. ***The*** [~~; provided that any such~~] loss shall ***be*** [~~have been~~] reported within thirty (30) days after discovery of ***the*** [~~such~~] loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) [~~(a)~~] "Gasoline dealer" ***or "special fuels dealer"*** means any person who ***is***:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arms length transactions; or

(e) In the case of gasoline, receiving or accepting

[~~1. Imports into this state, or causes to be imported into this state, nontaxpaid gasoline for use, distribution, storage or sale and delivery in this state after it has been stored in this state;~~

~~2. Receives or accepts delivery of nontaxpaid gasoline within this state into bulk storage facilities owned or operated for the storage of gasoline for transshipment within or without this state;~~

~~3. Refines, produces, distills, manufactures, blends or compounds gasoline in this state; or~~

~~4. Receives or accepts~~] delivery within this state of gasoline for resale within this state in amounts of not less than an average of ***two*** [~~one~~] hundred ***fifty*** thousand ***(250,000)*** [~~(100,000)~~] gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, ***the*** [~~such~~] person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer;

[~~(b) "Special fuels dealer" means any person who:~~

~~1. Imports into this state, or causes to be imported into this state, nontaxpaid special fuels for use, distribution, storage or sale and delivery in this state after it has been stored in this state;~~

~~2. Receives or accepts delivery of nontaxpaid special fuels within this state into storage facilities owned or operated for the storage of special fuels for transshipment within or without this state; or~~

~~3. Refines, produces, distills, manufactures, blends or compounds special fuels in this state;~~]

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments and all other products so usable ***which are produced, blended or compounded for the purpose of operating motor vehicles, showing a flash point of 110 Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United State Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline and condensates when used without blending***

as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: [~~except~~] propane, butane or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, [~~and~~] crude oil ***or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, V.M. and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xyol, toluol, aromatic petroleum solvents, alcohol and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel***;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, kerosene ***unless used wholly or in combination with special fuel as a motor fuel*** [~~not to be used to propel licensed motor vehicles~~], or liquefied petroleum gas as defined in KRS 234.100;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state unless the contrary is established by the dealer pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload or cargo lots, withdrawing such from refinery, marine, pipeline terminal or bulk storage tanks, without paying the tax. In such instances the licensed bonded dealer purchasing such gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage or delivered by pipeline at a pipeline terminal, delivery station or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents (9) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, such information regarding wholesale selling prices for the previous month as may be reasonably required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660 and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83 the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) [~~"Gasoline-alcohol blend" means a mixture of gasoline and fuel-grade alcohol in which the fuel-grade alcohol content is ten percent (10%) or less of the mixture;~~

~~(12) "Fuel-grade alcohol" means ethyl alcohol which is:~~

~~(a) At least one hundred and ninety-eight (198) proof;~~

~~(b) Denatured in accordance with legal requirements;~~

~~(c) Derived from United States produced corn, grain, or renewable resources, that is, ground, fermented and distilled by a licensed alcohol producer, in a plant facility that is powered primarily by United States produced coal; and~~

~~(d) Suitable for use in gasoline-alcohol blends;~~

~~(13) "Licensed alcohol producer" means a distiller of fuel-grade alcohol who is licensed and bonded pursuant to this chapter;~~

~~(14)~~] "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by ***the*** [~~such~~] motor vehicles;

(12)[~~(15)~~] "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction;

(13)[~~(16)~~] "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm***;***

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle.

Section 2. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the Revenue Cabinet reports on ***the*** [~~such~~] forms [~~as~~] the cabinet may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

(a) An itemized statement of the number of gallons received that have been produced, refined, manufactured or compounded by the dealer in this state during the next preceding calendar month; and

(b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

(a) Gasoline ***and special fuels*** sold to the United States government***, including sales or deliveries to others who sell or deliver the gasoline or special fuels to the United States government, for use exclusively in equipment or vehicles owned or leased by the United States government*** [~~in single deliveries of not less than two thousand (2,000) gallons each~~];

(b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment and point of delivery;

(c) Gasoline and special fuels lost through accountable losses; [~~and~~]

(d) Gasoline and special fuel exported or sold for export from this state to any other state in transport truck, tank car or cargo lots;

(e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:

1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United State Coast Guard; and

2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.

(f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and

(g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

(3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.

Section 3. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240.

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts and handling and reporting the tax, each dealer shall be allowed compensation equal to two and one-fourth percent (2 1/4%) of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358.[~~; provided, however,~~] No compensation shall be allowed if the completed tax return and payment are not submitted to the Revenue Cabinet within the time prescribed by KRS 138.210 to 138.500.

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the cabinet, by the twenty-fifth day of ***the next*** [~~each~~] month, an ***estimated tax due*** amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the ***report*** [~~previous~~] month, shall not be required to file the monthly reports required by this chapter until the last day of ***the*** [~~that~~] month ***following the report month***, and shall be permitted to claim as a credit against the tax liability shown due on ***the*** [~~such~~] report the ***estimated tax due*** amount ***so*** [~~previously~~] paid [~~for such month~~].

Section 4. KRS 138.310 is amended to read as follows:

(1) No person shall ***refine, produce, distill, manufacturer, blend, compound,*** receive, use, sell, transport, store or distribute any gasoline or special fuel upon which the tax due has not been paid or assumed or engage in the sale, storage or transportation of any gasoline or special fuel within this state upon which the tax has not been paid unless he is the holder of an uncanceled license issued by the Revenue Cabinet to engage in ***the*** [~~such~~] business. ***For the proper administration of this chapter and to prevent evasion of the tax, no retail filling station shall be licensed as a dealer or transporter of gasoline or special fuel upon which no tax has been paid.***

(2) Any transporter, other than a regularly licensed gasoline or special fuel dealer, transporting gasoline or special fuel by motor vehicle shall have plainly painted thereon the name, address, and permit number of such transporter.

(3) Any person who engages in the business of ***refining, producing, distilling, manufacturing, blending, compounding,*** receiving, using, selling, transporting, storing or distributing gasoline or special fuel in this state as a dealer, storage operator or transporter without holding an uncanceled license to engage in ***that*** [~~such~~] business, or who without ***the*** [~~such~~] license, ***refines, produces, distills, manufacturers, blends, compounds,*** receives, uses, sells, transports, stores, or distributes any gasoline or special fuel upon which the tax imposed by KRS 138.220 has not been reported and paid, shall pay a penalty equal to twenty per cent (20%) of the

amount of the tax on ***the*** [~~such~~] gasoline or special fuel so ***refined, produced, distilled, manufactured, blended, compounded,*** received, used, sold, transported, stored or distributed.

Section 5. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210 (2), or violates any other provision of this chapter, the license of ***the*** [~~said~~] dealer or transporter may be revoked by the Revenue Cabinet. ***The*** [~~Such~~] licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in ***that*** [~~said~~] manner by an employee of the Revenue Cabinet. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the Revenue Cabinet to the Kentucky Board of Tax Appeals as provided by law, subject to the condition that the licensee has made bond sufficient in the opinion of the Revenue Cabinet to protect the Commonwealth from loss of revenue.

(2) The cabinet ***may*** [~~is hereby given the power to~~] cancel the license***:***

(a) Upon request in writing from ***the*** licensee***, the*** [~~such~~] cancellation to become effective sixty (60) days from the date of receipt of the request***; or***

(b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.[~~But no license shall be canceled upon the request of any licensee until and unless said licensee, prior to the date of such cancellation, pays to the state all excise taxes payable under the laws of the state together with any and all penalties and fines accruing by reason of any failure on the part of such licensee to make accurate reports as required or pay such taxes and penalties.~~]

Section 6. KRS 138.341 is amended to read as follows:

(1) When gasoline or special fuel on which the tax has been paid pursuant to the provisions of KRS 138.210 to 138.340 has been used for the purpose of operating any aircraft engaged in the transportation of persons or property, the purchaser of ***the*** [~~such~~] liquid fuel so used shall be reimbursed ***for*** [~~to the extent of ninety-five percent (95%) of~~] the tax paid. No tax shall be refunded except that paid upon ***the*** [~~such~~] fuel used exclusively in [~~such~~] aircraft motors.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the Revenue Cabinet a bond with approved surety in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the Revenue Cabinet, conditioned upon faithful compliance with this section and KRS 138.342 and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) The right to receive any refund pursuant to subsection (1) of this section shall be assignable by the purchaser to the seller of the gasoline or special fuel if the seller has posted a bond with the cabinet and the aviation gasoline or special fuel purchased by the assignor is delivered directly into the fuel tank of aircraft owned or operated by him or his authorized agent. Any assignment shall be evidenced by noting upon the face and all copies of the retail sale invoice the following: "TAX REFUND ASSIGNED TO SELLER. Signed: (Purchaser or Agent.)"

Section 7. KRS 138.342 is amended to read as follows:

(1) Applications for refund pursuant to KRS 138.341 shall [~~on or before the last day of each month~~] be made to the Revenue Cabinet ***on a calendar quarter or calendar year basis*** on forms and in the manner prescribed by it for the refund of tax paid on aviation motor fuel used during the ***calendar quarter or calendar year*** [~~preceding month~~]. ***No refund claim shall be filed more than ninety (90) days after the close of the calendar year during or in which the tax refundable purchases were made.*** Each application for a refund shall show the number of gallons of aviation motor fuel purchased during the preceding month; the date and quantity of each purchase; the vendor from whom ***the*** [~~such~~] fuel was purchased; the number of gallons on which refund is claimed; and [~~such~~] other information [~~as~~] the Revenue Cabinet may require.

(2) The Revenue Cabinet shall audit the application and make [~~such~~] other investigation [~~as~~] it deems necessary to determine whether it constitutes a proper claim. When the Revenue Cabinet is satisfied that a refund is proper, it shall authorize [~~ninety-five percent (95%) of the amount of~~] the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts.

(3) When the Revenue Cabinet finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the Revenue Cabinet shall refuse to grant any refunds to the person making ***the*** [~~such~~] false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of ***the*** [~~such~~] finding.

Section 8. KRS 138.344 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.220 to 138.500, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes shall be reimbursed for the [~~full amount of the~~] tax so paid on ***the*** [~~such~~] gasoline or special fuel.[~~; provided, however, that~~] No refund shall be authorized unless applications therefor and all necessary information ***are*** [~~shall be~~] filed [~~annually~~] with the Revenue Cabinet ***on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. No refund claim shall be filed more than*** [~~within~~] ninety (90) days after the close of the calendar year [~~or quarterly within thirty (30) days following the end of the calendar quarter~~] during or in which ***the tax refundable*** [~~such~~] purchases were made.[~~; and further provided that~~] No refund shall be authorized for any individual purchase of less than fifty (50) gallons. In lieu of the tax refund procedure herein, the tax on special fuels for operating or propelling stationary engines or tractors for agricultural purposes may be credited by the dealer to the purchaser as provided in KRS 138.358. ***The***[~~, provided, however, such~~] dealer and ***the*** [~~such~~] purchases shall be subject to the same rules, conditions and responsibilities as provided in KRS 138.344 to 138.355.

(2) The information to be required from the permit holder, by the Revenue Cabinet, in order that ***the*** [~~such~~] refund may be allowed, ***shall be*** [~~is~~] as follows:

(a) Name and address of permit holder ____________________ permit number ____________________

(b) Total number of gallons purchased ______ and total purchase price ______ (Invoices to be attached to refund application.)

(c) Total number of gallons used on highways __________

(d) Total number of gallons on which refund is claimed __________ (Line b minus line c.)

(e) Such other information as the cabinet may require to reasonably protect the revenues of the Commonwealth.

Section 9. KRS 138.345 is amended to read as follows:

No person shall secure a refund of tax under KRS 138.344 unless ***the*** [~~such~~] person is the holder of an unrevoked refund permit issued by the Revenue Cabinet before the purchase of the gasoline or special fuel, which permit shall entitle ***the*** [~~such~~] person to make application for a refund under KRS 138.344 to 138.355. To procure a permit every [~~such~~] person shall file with the cabinet an application under oath, on forms furnished by the cabinet, setting forth ***the*** [~~such~~] information incident to the refunding of the tax paid on gasoline or special fuel as the cabinet may require. ***The properly completed and signed*** [~~Such~~] application shall be filed with the cabinet ***on or*** [~~at least fifteen (15) days~~] before the date [~~when~~] the permit***, if approved by the cabinet,*** is to become effective.

Section 10. KRS 138.348 is amended to read as follows:

(1) The cabinet may require any dealer or any dealer's authorized agent to identify refund gasoline or special fuel sold by him by adding thereto any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the cabinet.

(2) Refund gasoline and special fuel shall not be sold in quantities of less than fifty (50) gallons. The refund permit holder shall receive and store all ***the*** [~~such~~] gasoline and special fuel in containers plainly marked with distinguishing letters "Refund Motor Fuel," ***or comparable letters prescribed by the Revenue Cabinet,*** andshall keep ***the*** [~~such~~] containers on his premises accessible to agents of the cabinet and separate from other gasoline and special fuel stored on his premises.

(3) The Revenue Cabinet may, within its discretion, issue a refund permit for a portable storage facility ***if*** [~~, provided,~~] the applicant satisfies the cabinet that the facility will be used exclusively for the purpose of fueling unlicensed vehicles or equipment at multiple locations for nonhighway purposes, and [~~that~~] fueling ***the*** [~~such~~] vehicles or equipment from a nonportable facility would not be practical.

(4) Every refund permit holder who uses on the public highways motor fuel of the type for which refund

is claimed shall keep detailed records of all ***the*** [~~such~~] motor fuel acquired, monthly odometer readings of all licensed motor vehicles owned or operated by the holder which use ***the*** [~~such~~] fuel, and [~~such~~] other records as the Revenue Cabinet may, in writing, require to protect the revenues of the Commonwealth.

(5) Agents of the cabinet ***may*** [~~are authorized to~~] go upon the premises of any permit holder or of any licensed gasoline or special fuel dealer or his authorized agent to make inspections to ascertain any matter connected with the operation of KRS 138.344 to 138.355 or the enforcement thereof.[~~; Provided, however, That~~] No agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

Section 11. KRS 138.351 is amended to read as follows:

(1) When gasoline or special fuel is sold to a person who shall claim to be entitled to refund under KRS 138.344, the licensed dealer or his duly authorized agent who sells ***the*** [~~such~~] gasoline or special fuel shall make out in duplicate[~~, with double back carbon,~~] a gasoline or special fuel refund invoice supplied ***or approved in writing*** by the cabinet, which invoice shall have printed thereon that the liability to the Commonwealth of Kentucky for the excise tax imposed under KRS 138.220 with respect to ***the*** [~~such~~] gasoline or special fuel has been assumed by the seller and that ***the*** [~~said~~] excise tax has already been paid or will be paid by the seller when the same shall become payable, a statement setting forth the name and address of the purchaser, the number of gallons of gasoline or special fuel so sold, the proposed use for which ***the*** [~~such~~] gasoline or special fuel is purchased, and [~~such~~] other information as the cabinet shall require. The original [~~of such~~] gasoline or special fuel refund invoice shall be given to the purchaser and the duplicate shall be retained by the seller.

(2) The refund permit holder shall file with the cabinet an application for refund on forms furnished by the cabinet, stating the quantity of gasoline and special fuel used for the purposes as set out in KRS 138.344. ***The*** [~~Such~~] application shall be accompanied by the original invoice, or certified copy thereof, showing ***the*** [~~such~~] purchase, and, if required by the cabinet, evidence of payment therefor. When the cabinet is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made; and the amount refunded shall be deducted from gasoline or special fuel tax receipts as appropriate.

(3) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of ***the*** [~~such~~] person entitled thereto.

Section 12. KRS 138.358 is amended to read as follows:

(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on ***the*** [~~such~~] fuel ***if*** [~~, provided~~] the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that ***the*** [~~such~~] fuel will be used exclusively to heat the personal residence to which it is delivered. No person so certifying shall use ***the*** [~~such~~] special fuel for any other purpose. Special fuel delivered into a tank having no dispensing outlet and used exclusively to heat a commercial building shall be subject to refund pursuant to KRS 138.351 to 138.355. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit [~~such~~] information [~~as may be~~] required by the cabinet to reasonably protect the revenues of the Commonwealth.

(2) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a storage tank for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on ***the*** [~~such~~] fuel ***if*** [~~, provided~~] the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that ***the*** [~~such~~] fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use ***the*** [~~such~~] special fuels for any other purpose. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit [~~such~~] information [~~as may be~~] required by the cabinet to reasonably protect the revenues of the Commonwealth.

(3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The Revenue Cabinet may require dealers claiming the

credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

Section 13. KRS 138.445 is amended to read as follows:

(1) ***Except as provided in KRS 138.240(2)(e),*** any person who buys any liquid fuel for the purpose of dispensing it directly into fuel tanks installed in or attached to watercraft, for the purpose of operating or propelling watercraft, shall be reimbursed ***for*** [~~and repaid ninety percent (90%) of~~] the tax paid by him pursuant to the provisions of KRS 138.220 to 138.340 upon presenting to the Revenue Cabinet an application accompanied by the original invoices showing the payment of ***the*** [~~such~~] purchases, including the liquid fuel tax thereon. The application shall set forth the total amount of the liquid fuel purchased and used by the applicant in the operation or propulsion of watercraft.

(2) (a) When liquid fuel on which the tax has been paid pursuant to the provisions of KRS 138.220 to 138.340 has been used for the purpose of operating any watercraft and was delivered directly to the fuel tanks installed in or attached to the watercraft, the purchaser of the liquid fuel so used shall be reimbursed ***for*** [~~to the extent of ninety percent (90%) of~~] the tax paid. No tax shall be refunded except that paid upon ***the*** [~~such~~] fuel used exclusively in watercraft motors; and

(b) No person shall be entitled to a refund hereunder unless he shall have first filed with the Revenue Cabinet a bond with approved surety in the amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the Revenue Cabinet and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) All refund claims authorized by this section shall be filed [~~annually~~] with the Revenue Cabinet ***on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. No refund claim shall be filed more than*** [~~within~~] ninety (90) days after the close of the calendar year [~~or quarterly within thirty (30) days following the end of the calendar quarter~~] during or within which the liquid fuel shall have been purchased as shown by the invoice. ***If*** [~~Where~~] the application for refund is mailed to the Revenue Cabinet, the date of mailing as shown by the postmark shall be taken as the time and date of filing with the cabinet.

(4) Refunds shall be made only on gasoline and special fuels purchased by locations designated by the Revenue Cabinet.

Section 14. KRS 138.446 is amended to read as follows:

(1) City and suburban bus companies and taxicab companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281, holders of a nonprofit bus certificate as provided by KRS 281.619, and senior citizen programs which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the Revenue Cabinet a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the Revenue Cabinet, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall ***be filed with*** [~~on or before the last day of each month following the quarter, September 30, December 31, March 31, and June 30, be made to~~] the Revenue Cabinet on ***a calendar quarter or calendar year basis on*** forms and in the manner prescribed by it for [~~the~~] refund of tax paid on motor fuel used by buses or taxicabs. ***No refund claim shall be filed more than*** [~~during the quarter; except that a taxicab company may file an application within~~] ninety (90) days after the close of the ***calendar*** [~~fiscal~~] year ***during or*** in which the ***tax refundable*** purchases were made. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom ***the*** [~~such~~] fuel was purchased; the number of gallons on which refund is claimed; and [~~such~~] other information [~~as~~] the Revenue Cabinet may require. Invoices shall be attached to applications from taxicab companies.

(4) The cabinet may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding thereto any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the cabinet. The cabinet also may require that the dealer keep a complete record of all ***the*** [~~such~~] gasoline sold by him, which records shall give the date of each [~~such~~] sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The Revenue Cabinet shall audit the application and make such other investigation as it deems necessary

to determine whether it constitutes a proper claim. When the Revenue Cabinet is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts.

(6) When the Revenue Cabinet finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the Revenue Cabinet shall refuse to grant any refunds to the person making ***the*** [~~such~~] false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of ***the*** [~~such~~] findings.

(7) The Revenue Cabinet may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(8) The refund provided herein shall be effective on motor fuel purchased July 1, 1978 and thereafter.

Section 15. The following KRS sections are repealed:

138.221 Tax credit for use of gasoline — Alcohol blend — Requirements — Reports.

138.222 Special fuels floor stocks tax.

Section 16. The following sections of this Act shall become effective on January 1, 1991: Sections 6(1), 7, 8, 13, and 14.

HB 494, AN ACT relating to electric utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.530 is amended to read as follows:

(1) Any city acquiring or constructing an electric light, heat and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of three (3) commissioners to operate, manage and control the plant, except that a city of the second class shall appoint five (5) commissioners. The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to such plants by KRS 96.520, and by any ordinance enacted under that section, except that in fixing rates the commission in a city of the second or third class shall be governed by the provisions of KRS 96.535 and any ordinance enacted thereunder. The utility commission, when so appointed, shall be [~~and hereby is declared to be~~] a public body politic and corporate, with perpetual succession; and ***the*** [~~said~~] body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employees needed to operate the plant. In cities of the second or third class providing civil service coverage for city employees, the utility commission appointed under this section ***may*** [~~shall~~] provide [~~such~~] civil service coverage for all of its employees and it shall exercise the powers and functions with respect to such employees which are vested in the city legislative body with respect to the city employees by KRS 90.380. Employees who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employees under civil service coverage shall not be required to stand a civil service examination and they shall be eligible for all the benefits provided by [~~such~~] civil service coverage. Out of the revenue of the plant it shall pay operating expenses, repairs and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to such plants by KRS 96.520, except that the commission in a city of the second or third class shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted thereunder. Notwithstanding the foregoing provisions, the utility commission, for the purpose stated in subsection (1) of KRS 96.520, may enter into an agreement for the operation of any of its plants or other facilities.

(2) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor or a member of a city legislative body. The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative body. No officer or employee of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of ***the*** [~~said~~] commission or to be employed by the commission in any capacity. The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. If at any time during his term of office any member of the commission becomes a candidate for

or is elected or appointed to any public office, he shall automatically vacate his membership on the commission and another person shall be appointed in his place.

(3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and each commissioner shall execute bond to be approved by the city legislative body.

(4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed:

(a) Two thousand four hundred dollars ($2,400) per annum, if the city does not own or operate electric generation facilities; or

(b) Two thousand four hundred dollars ($2,400) per annum, if the city owns or operates electric generation facilities.

(5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. On a commission with five (5) members, not more than two (2) members shall hold concurrent terms of office.

(6) All commission members appointed subsequent to the initial members shall be appointed by the mayor or chief executive of the municipality, with the approval of the governing body of the municipality.

SB 122, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.420 is amended to read as follows:

(1) In any [~~If an~~] action ***filed*** [~~is commenced~~] against the commission because of ***its*** [~~an~~] order [~~made~~] in ***a proceeding*** [~~any proceedings~~] before it, the commission shall ***file*** [~~promptly cause~~] a certified ***copy*** [~~transcript~~] of ***the designated record and evidence with*** [~~all proceedings had and testimony taken therein to be made and filed with the clerk of~~] the court in which the action is pending.

(2) Unless an agreed statement of the record is filed with the court, the filing party shall designate, within ten (10) days after an action is filed, the portions of the record necessary to determine the issues raised in the action. Within ten (10) days after the service of the designation or within ten (10) days after the court enters an order permitting any other party to intervene in the action, whichever occurs last, any other party to the action may designate additional portions for filing. The court may enlarge the ten (10) day period where cause is shown. Additionally, the court may require or permit subsequent corrections or additions to the record.

(3) The cost of preparing and certifying the record shall be ***taxed and*** paid to the commission [~~by the party bringing the action, and taxed as part of the costs, to be paid~~] as directed by the court upon final determination of the action. ***As a part of this determination, the court may tax a party for the cost of preparing portions of the record not deemed reasonably necessary to the disposition of the action.*** Copies of the ***designated record*** [~~transcript~~] shall be furnished at cost to any party to the ***action*** [~~proceeding~~].

Section 2. KRS 278.440 is amended to read as follows:

Any action brought under KRS 278.410 shall be heard and decided by the court upon the evidence submitted to the commission as shown by the ***record*** [~~transcript~~], and no other evidence shall be received. If any party satisfies the court that evidence has been discovered since the hearing before the commission that could not have been obtained for use at that hearing by the exercise of reasonable diligence and will materially affect the merits of the case, the court may remand the record and proceedings to the commission, with directions to take the newly-discovered evidence, and after consideration thereof, enter and file a proper order, which may be reviewed in the same manner as any other final order of the commission.

Calendar

HB 10, HB 38, HB 115, HB 207, HB 297, HB 319, HB 332, HB 345, HB 352, HB 368, HB 378, HB 399, HB 413, HB 443, HB 470, HB 473, HB 490, HB 511, HB 516, HB 532 and **SB 161** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 40 and **HB 434** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HCR 33 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved that **HCR 33** be passed.

On the roll call the vote was: Yeas 82, Nays 2. (See February 16, 1990 roll call on **HCR 33** - Appendix.)

HCR 33 was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HCR 33** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 472, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 472**. Agreed.

Representative Donnermeyer moved that **HB 472**, as amended, be passed.

On the roll call the vote was: Yeas 58, Nays 19. (See February 16, 1990 roll call on **HB 472** - Appendix.)

HB 472, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 472**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 70, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of Committee Substitute to **HB 70**. Agreed.

Representative Siler moved that **HB 70**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 2. (See February 16, 1990 roll call on **HB 70** - Appendix.)

HB 70, by way of Committee Substitute, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 70**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 241, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Substitute to **HB 241**. Agreed.

Representative Farrow moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 241**. Agreed.

Representative Farrow moved that **HB 241**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 78, Nays 13. (See February 16, 1990 roll call on **HB 241** - Appendix.)

HB 241, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 241**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 242, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of Committee Substitute to **HB 242**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 242**. Agreed.

Representative Worthington moved that **HB 242**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 16, 1990 roll call on **HB 242** - Appendix.)

HB 242, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 242**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 62** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 9:27 a.m.)

Orders of the Day (continued)

HB 82, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Todd moved the adoption of Committee Substitute to **HB 82**. Agreed.

Representative Todd moved that **HB 82**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See February 16, 1990 roll call on **HB 82** - Appendix.)

HB 82, by way of Committee Substitute, was passed and the title agreed to.

Representative Todd moved that the vote by which **HB 82**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 317, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of Committee Amendment No. 1 to **HB 317**. Agreed.

Representative Rapier moved the adoption of Floor Amendment No. 1 to **HB 317**. Agreed.

Representative Rapier moved that **HB 317**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 16, 1990 roll call on **HB 317** - Appendix.)

HB 317, as amended, was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 317**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 54 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HJR 54** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 16, 1990 roll call on **HJR 54** - Appendix.)

HJR 54 was passed and the title agreed to.

Representative Noe moved that the vote by which **HJR 54** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 20, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HR 20**. Agreed.

Representative Lear moved that **HR 20**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 16, 1990 roll call on **HR 20** - Appendix.)

HR 20, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HR 20**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 232, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Substitute to **HB 232**. Agreed.

Representative Hancock moved that **HB 232**, by way of Committee Substitute, be passed.

Representative Lewis moved the adoption of Floor Amendment No. 1 to **HB 232**. Agreed.

Representative Hancock moved that **HB 232**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 16, 1990 roll call on **HB 232** - Appendix.)

HB 232, by way of Committee Substitute as amended, was passed.

Representative Hancock moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 232**. Agreed; and the title was agreed to.

Representative Hancock moved that the vote by which **HB 232**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 460 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that **HB 460** be passed.

On the roll call the vote was: Yeas 69, Nays 6. (See February 16, 1990 roll call on **HB 460** - Appendix.)

HB 460 was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 460** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 476 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 476** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See February 16, 1990 roll call on **HB 476** - Appendix.)

HB 476 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 476** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 128 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that **HB 128** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 16, 1990 roll call on **HB 128** - Appendix.)

HB 128 was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 128** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 393 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 393** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 16, 1990 roll call on **HB 393** - Appendix.)

HB 393 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 393** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 320 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HB 320** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 16, 1990 roll call on **HB 320** - Appendix.)

HB 320 was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 320** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 404, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved the adoption of Committee Amendment No. 1 to **HB 404**. Agreed.

Representative Nelson moved that **HB 404**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 9. (See February 16, 1990 roll call on **HB 404** - Appendix.)

HB 404, as amended, was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 404**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 351 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Northup moved that **HB 351** be passed.

On the roll call the vote was: Yeas 32, Nays 48. (See February 16, 1990 roll call on **HB 351** - Appendix.)

HB 351 was defeated.

HB 482 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 482** be passed.

On the roll call the vote was: Yeas 90, Nays 3. (See February 16, 1990 roll call on **HB 482** - Appendix.)

HB 482 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 482** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 441, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of Committee Amendment No. 1 to **HB 441**. Agreed.

Representative Gedling moved that **HB 441**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 16, 1990 roll call on **HB 441** - Appendix.)

HB 441, as amended, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 441**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **SCR 4** be passed.

On the roll call the vote was: Yeas 90, Nays 2. (See February 16, 1990 roll call on **SCR 4** - Appendix.)

SCR 4 was passed and the title agreed to.

Representative Clarke moved that the vote by which **SCR 4** was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 5 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **SCR 5** be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See February 16, 1990 roll call on **SCR 5** - Appendix.)

SCR 5 was passed and the title agreed to.

Representative Clarke moved that the vote by which **SCR 5** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 76, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 76** is as follows:

Amend printed copy of **HB 76** on page 9, lines 15 and 16, by deleting "***and in addition shall receive fifty dollars ($50) per diem compensation.***"

Representative Clarke moved that the House concur in Senate Amendment No. 1 to **HB 76**. Agreed

Representative Clarke moved that **HB 76**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 77, Nays 9. (See February 16, 1990 roll call on **HB 76** - Appendix.)

HB 76, as amended by the Senate, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 76**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Mason moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Mason moved the adoption of the following Legislative Citation No. 40. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends the students and faculty of Whitesburg High School

The students and faculty of Whitesburg High School recognize the patriotism, dedication and personal sacrifice of Kentucky's Veterans. In appreciation to all of the Letcher County Veterans, the students and faculty presented a Lincoln's Day Program honoring these special Kentuckians. Special recognition is granted to the student body for their exemplary conduct and respect shown during the presentation of this program.

This prestigious body joins Representative Paul Mason in saluting the students and faculty of Whitesburg High School for their recognition of Letcher County Veterans.

Representative Blevins moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 134, by Representative Blevins: A RESOLUTION honoring Chris Harrison of Tollesboro High School.

Representative Blevins moved the adoption of the following **HR 134**:

HR 134, A RESOLUTION honoring Chris Harrison of Tollesboro High School.

WHEREAS, Chris Harrison is one of the most admired young men of Tollesboro High School; and

WHEREAS, Chris Harrison is widely recognized at Tollesboro High School as an outstanding student and athlete, as well as a dedicated, conscientious, and high-principled young man; and

WHEREAS, Chris Harrison has a 4.0 grade average, ranks first in his junior class, and holds the distinguished Academic All State Record for three years in a row; and

WHEREAS, this "All Around American Young Man" was a star basketball player of our Commonwealth with a 32.0 point average per game; and

WHEREAS, this young Kentuckian is a leading scorer this basketball season with 36.0 point average per game; and

WHEREAS, Chris Harrison has not disappointed his hometown fans nor lost sight of the ideals they have so much admired in him; and

WHEREAS, Chris Harrison has made a verbal commitment to attend the University of Kentucky upon his graduation from Tollesboro High School; and

WHEREAS, Chris Harrison is a model figure for all young Kentuckians;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes Chris Harrison, an outstanding Kentuckian.

Section 2. That the House of Representatives commends Chris Harrison on his excellence.

Section 3. That the Clerk of the House is directed to send a copy of this resolution to Chris Harrison in care of his principal, Jimmy Staton, Tollesboro High School, Post Office Box 1, Tollesboro, Kentucky 41189.

HR 134 was adopted by voice vote.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 38, Representative Ward; **HB 232**, Representatives Casebier, Donnermeyer; **HB 233**, Representatives Bronger, Northup; **HB 256**, Representative Long; **HB 272**, Representative Ackerson; **HB 342**, Representative Lile; **HB 370**, Representative Jackson; **HB 387**, Representative Jackson; **HB 399**, Representative Lefevers; **HB 403**, Representative Blevins; **HB 404**, Representatives Lefevers, Lyne; **HB 411**, Representatives Bronger, Gedling, Nett, Priddy, P. Richardson, Yates; **HB 436**, Representative Jackson; **HB 448**, Representative Ridley; **HB 474**, Representative Jackson; **HB 490**, Representative Preston; **HB 539**, Representative Ridley; **HB 557**, Representative Lyne; **HB 575**, Representative Farrow.

Representative Lefevers requested that he be withdrawn as co-sponsor of **HB 115** and **HB 268**.

Representative Ward moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 132, by Representatives Ward and Heleringer: A RESOLUTION honoring Margaret C. Heleringer upon the occasion of her eighty-eighth birthday.

Representative Ward moved the adoption of the following **HR 132**:

HR 132, A RESOLUTION honoring Margaret C. Heleringer upon the occasion of her eighty-eighth birthday.

WHEREAS, Margaret C. Heleringer was born on February 18, 1902; and

WHEREAS, Margaret C. Heleringer has been a long-time resident of Jefferson County, Kentucky; and

WHEREAS, in 1947, her husband, the late A. M. Heleringer, founded Heleringer Furniture Company, a highly respected family business in the Louisville community; and

WHEREAS, Margaret C. Heleringer has contributed countless hours toward charitable causes, and has held a special interest in Boys Haven, a Louisville home for neglected and dependant boys; and

WHEREAS, Margaret C. Heleringer is the devoted mother of four sons, James A. Heleringer, Robert C. Heleringer, John J. Heleringer, and Thomas A. Heleringer, and the loving grandmother of the Gentleman from Jefferson 33; and

WHEREAS, Margaret C. Heleringer will be celebrating her eighty-eighth birthday on Sunday, February 18, 1990;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body is pleased and honored to recognize Margaret C. Heleringer, and extends to her its happiest birthday greetings on Sunday, February 18, 1990, this her eighty-eighth birthday.

Section 2. That when the House of Representatives adjourns this day, Friday, February 16, 1990, it does so in honor of the occasion of Margaret C. Heleringer's birthday, Sunday, February 18, 1990.

Section 3. That the Gentleman from Jefferson 33 is directed to deliver a copy of this resolution to Margaret C. Heleringer.

HR 132 was adopted by voice vote.

Representative Strong moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 131, by Representative Strong: A RESOLUTION recognizing and honoring the Business and Industry Technical Assistance Center and Hazard Community College for their role in small business development and for winning the Keep America Working Award for 1990.

Representative Strong moved the adoption of the following **HR 131**:

HR 131, A RESOLUTION recognizing and honoring the Business and Industry Technical Assistance Center and Hazard Community College for their role in small business development and for winning the Keep America Working Award for 1990.

WHEREAS, small business development in Kentucky will account for a major portion of the new jobs in the 1990s; and

WHEREAS, entrepreneurial skills and education are critical to the success of new small business development; and

WHEREAS, the Business and Industry Technical Assistance Center, known as BITAC, at Hazard Community College has emerged as a state and national leader in the creation of jobs and in the delivery of services to small business through a regional network of over 56 agencies and organizations; and

WHEREAS, BITAC has assisted in the development of over 145 new businesses in southeast Kentucky since 1985; and

WHEREAS, due to the constant consultation provided by the Center, none of these businesses have failed; and

WHEREAS, the success of BITAC has lead the Small Business Task Force to prefile **HB 138** which would establish BITACs throughout Kentucky and lead to a statewide job creation network for small business development; and

WHEREAS, the Hazard Community College BITAC has been named a 1990 national winner of the Keep America Working Award from the American Association of Community and Junior Colleges and has been recognized as a national model for partnership with business and industry in rural America;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the Kentucky General Assembly hereby recognizes the leadership efforts of Hazard Community College's BITAC in the area of small business development and honors President Hughes and the entire college faculty, administration, and staff and Charles Simpson, Coordinator of BITAC, and his staff for receiving the 1990 Keep America Working Award and for bringing positive attention to our Commonwealth.

HR 131 was adopted by voice vote.

Representative Callahan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HCR 33**. Agreed.

Representative Gedling moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gedling moved the adoption of the following Legislative Citation No. 41. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The City of Providence, Kentucky.

The City of Providence will mark its 150th anniversary with a Sesquicentennial Celebration. A community gathering at a ribbon cutting ceremony will be held Sunday, February 18th in honor of Founders Day. The residents and city officials of Providence should be proud of the heritage and accomplishments of your community.

This prestigious body joins Representative Dorsey Ridley in saluting the city of Providence and wishes the community many more years of growth and prosperity.

Representative Blevins moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Blevins moved the adoption of the following Legislative Citation No. 42. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Chris Harrison for your many academic and athletic achievements. Your outstanding desire for achievement in the classroom and on the basketball court is exemplary. The many records and honors you have received are recognition of your dedication, hard work and personal sacrifice. May the memories and merits of these accomplishments remain with you and guide you through future endeavors.

This prestigious body joins Representative Walter Blevins in saluting you and extends our very best wishes to you.

Representative Johnson moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 133, by Representatives Johnson, Blandford, McElroy, Ballard, Ridley, A. Jones, Altman, Richards, Geveden, Pritchett, Lewis, Clarke and B. Richardson : A RESOLUTION adjourning in memory and honor of James Fleming Gordon.

Representative Johnson moved the adoption of the following **HR 133**:

HR 133, A RESOLUTION adjourning in memory and honor of James Fleming Gordon.

WHEREAS, James Fleming Gordon, a native of Madisonville, Kentucky, departed this life on Friday, February 9, 1990; and

WHEREAS, James Fleming Gordon attended elementary schools in Madisonville, Kentucky, graduated from Georgia Military Academy in 1936 with scholastic honors, and received his undergraduate and juris doctor degrees from the University of Kentucky in 1941; and

WHEREAS, James Fleming Gordon served his country with distinction as a lieutenant in the U.S. Army in the South Pacific Theatre during World War II; and

WHEREAS, after the War, James Fleming Gordon practiced law in the family law firm of Gordon, Gordon and Moore in Madisonville, Kentucky; and

WHEREAS, James Fleming Gordon was appointed to the federal bench by President Lyndon Johnson on July 23, 1965; and

WHEREAS, James Fleming Gordon became chief judge of the court in 1968; and

WHEREAS, James Fleming Gordon, in 1970, was selected as one of 10 nationwide federal district judges to the faculty of the newly established Federal Judicial Center in Washington, D.C.; and

WHEREAS, James Fleming Gordon was an active supporter of the Boy Scouts of America, serving many years as finance chairman for the local council in Madisonville, and in 1982, was the first recipient of the Audubon Council of the BSA's Distinguished Citizen Award; and

WHEREAS, James Fleming Gordon was elected to the Madisonville and Hopkins County Boards of

Education, serving more than 12 years, during which time he was a leader in the bitter, but successful, fight for consolidation of the two school districts; and

WHEREAS, James Fleming Gordon served terms on the Board of Governors of the Kentucky Bar Association from 1948 to 1956 and was a fellow of the American College of Trial Lawyers; and

WHEREAS, James Fleming Gordon, in the mid 1950's became active in the Democratic Party on a statewide management level and was considered a potential candidate for Lieutenant Governor in 1963 and for the U.S. Senate in 1968; and

WHEREAS, James Fleming Gordon was chairman of the Kentucky Public Service Commission from 1956-60, and was special counsel to the Commission from 1960-65; and

WHEREAS, James Fleming Gordon is best remembered and admired for his contribution to the desegregation of public schools in the Jefferson County school system in 1975 which generated enormous resistance, school boycotts, and violent demonstrations; and

WHEREAS, James Fleming Gordon received praise from leaders of civil rights groups and members of the Jefferson County Board of Education for his even-handed determination and his confidence and strong will during one of the most tumultuous periods in Jefferson County's history; and

WHEREAS, James Fleming Gordon retired in January, 1984, having spent 18 years as a judge; and

WHEREAS, James Fleming Gordon was the devoted husband of Iola Young Gordon, and the loving father of Maurice Kirby Gordon II, James Fleming Gordon, Jr., and Marianna Gordon Dyson, and the proud grandfather of five grandchildren; and

WHEREAS, all who knew and admired James Fleming Gordon will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby express its profound sense of sorrow upon the death of James Fleming Gordon, and extends to his family its most heartfelt sympathy.

Section 2. That a memorial service is being held on Sunday, February 25, 1990, at 2:00 p.m., central standard time, in the First United Methodist Church, East Center Street, Madisonville, Kentucky, with Reverend F. Thomas Mills of St. Mary's Episcopal Church officiating. Following the memorial service, the family will receive friends in the fireside room of the church.

Section 3. That the family requests that expressions of sympathy be in the form of donations to the James F. Gordon Memorial Fund at the University of Louisville School of Law, Louisville, Kentucky.

Section 4. That when the House of Representatives adjourns this day, Friday, February 16, 1990, it does so in loving memory and honor of James Fleming Gordon.

Section 5. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Mrs. Iola Young Gordon, 550 West Flamingo, #104, Venice, Florida 34285.

HR 133 was adopted by voice vote.

Representative Stumbo moved that **HJR 123** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 623, by Representatives Gedling and Reinhardt: AN ACT relating to farming.

HB 624, by Representatives Todd and Blevins: AN ACT relating to crimes and punishments.

HB 625, by Representative Cyrus: AN ACT relating to retirement.

HB 626, by Representatives Lear and Blevins: AN ACT relating to health benefits.

HB 627, by Representative Northup: AN ACT relating to public health.

HB 628, by Representatives Gedling, Crupper and Burch: AN ACT relating to tobacco products.

HB 629, by Representative Kerr: AN ACT relating to child day care.

HB 630, by Representative P. Richardson: AN ACT relating to motor carriers.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 248**, **HB 249**.

Counties and Special Districts: **HB 524**, **HB 596**, **SB 64**.

Business Organizations and Professions: **HB 502**, **HB 527**, **SB 31**.

Transportation: **HJR 51**, **HJR 57**, **HJR 81**, **HCR 99**, **HJR 120**, **SJR 36**, **HB 533**, **HB 548**.

Motions, Petitions and Communications (continued)

Representative Ward moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ward moved that he be recorded as voting "yea" on **SCR 5**. Agreed.

Representative Casebier moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Casebier moved that his vote be changed from "nay" to "yea" on **HB 82**. Agreed.

Representative Lewis moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lewis moved that he be recorded as voting "yea" on **HB 441**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 70**, **HB 241**, **HB 472**, **HB 232**, **HB 460**, **HB 320**, **HB 404**, **HB 128**, **HB 393**, **HB 441**, **HB 476**, **HB 482**, **SCR 4**, **SCR 5**, **HJR 54** and **HR 20** Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 398**, by Representative Hancock:

Amend printed copy of **HB 398** on page 2, line 23, by deleting the word "***two***" and by deleting the brackets from around the word "one";

line 23, by deleting the word "***fifty***"; and

line 24, by deleting the number "***(250,000)***" and by deleting the brackets from around the number "100,000".

On page 14, lines 11 through 15, by deleting all the new, underscored language beginning with the word "***For***" and ending on line 15, with the word "***paid.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 516**, by Representative Sheehan:

Amend printed copy of HCS to **HB 516** on page 11, after line 7, by inserting the following new section, "Section 11. KRS Section 227.750 is amended to read as follows:

The state fire marshal ***may*** [~~shall~~] seize, take, remove or cause to be removed at the expense of the owner, all stocks of fireworks or combustibles ***sold,*** offered or exposed for sale, stored, or ***possessed*** [~~held~~] in violation of KRS Chapter 227. All fireworks [~~held,~~] possessed, ***stored, sold, or offered or exposed for sale*** [~~or used~~] in violation of KRS Chapter 227 ***may*** [~~shall~~] be destroyed as contraband. ***However, the mere storage of fireworks in violation of KRS Chapter 227 shall not subject said fireworks to confiscation and destruction by the state fire marshal unless notice and reasonable opportunity to correct such storage defect has first been given.***"; and

On page 11, line 8, by renumbering Section 11 as Section 12.

Floor Amendment No. 3 to **HB 182**, by Representative Reinhardt:

Amend printed copy of **HB 182** on page 1, lines 1 through 21, to delete the same and to insert in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

(1) Any other statute to the contrary notwithstanding, a suit against a consumer debtor may also be filed in any county where the contract was signed or in which services were rendered regardless of the defendant's current county of residence or the plaintiff's location.

(2) In the event that it is determined after a suit has been brought against a consumer debtor wrongfully or in error in a county other than that in which the debtor resides, the debtor shall be entitled to treble damages."; and

On pages 2 through 4, lines 1 through 26, to delete the same; and

On page 5, lines 1 through 9, to delete the same.

Floor Amendment No. 1 to **HB 413**, by Representative Long:

Amend printed copy of **HB 413** on page 3, line 8, delete the word "***and***" after "***(b)***" and insert "***,***" in lieu thereof;

On page 3, line 9, add "***and (d)***" after "***(c)***";

On page 3, line 26, delete "***or***";

On page 4, line 6, delete "." and insert "***; or***"; and

On page 4, after line 6 and before line 7 by inserting:

"***(d) Valid mechanics' or materialmen's liens, with respect to which all filing and other requirements of KRS Chapter 376 have been satisfied, for the performance of labor or furnishing of materials for those purposes set forth in KRS 376.010(1) with respect to an owner-occupied, single or double-family dwelling, but only to the extent of sums advanced by the lender after the filing of the statement required under the applicable section of KRS Chapter 376.***"

The Clerk announced the following meetings:

The Appropriations and Revenue Subcommittee on Human Resources, 11:00 a.m., February 20, 1990.

The Committee on Health and Welfare, 10:00 a.m., February 20, 1990.

The Committee on Agriculture and Small Business, 9:00 a.m., February 20, 1990.

The Budget Review Subcommittee on Economic Development and Tourism, 10:00 a.m., February 19, 1990.

The Committee on Natural Resources and Environmental Protection, 2:00 p.m., February 20, 1990.

The Budget Review Subcommittee on General Government, 11:00 a.m., February 19, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Tuesday, February 20, 1990.

On the roll call the vote was yeas 83—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Lile, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Nelson, Nett, Noe, Noland, Overstreet, Preston, Priddy, Pritchett, Rapier, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Yates, Zimmerman. Nays 2—Heleringer , LeMaster.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 20, 1990

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John F. Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative White.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 16, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 86**, **SB 182**, **SB 215** and **SCR 3**.

Report on Enrolled Bills

The Committee on Enrollment reported **SCR 4** and **SCR 5** have been examined and found correctly enrolled. Said Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:03 p.m.)

Introduction of Bills and Resolutions

HB 631, by Representative Farrow: AN ACT relating to health insurance.

HB 632, by Representative Nelson: AN ACT relating to coroners.

HB 633, by Representatives Bentley, Mason, White, Lefevers and Noland: AN ACT relating to examinations of victims of sexual offenses.

HB 634, by Representative Long: AN ACT relating to private activity bond allocation committee.

HB 635, by Representative Long: AN ACT relating to law enforcement telecommunicators.

HR 135, by Representatives Bentley, Stumbo, Noland, Lefevers, Ward, Mullinix, Bruce and Blevins: A RESOLUTION honoring Belinda Mason.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **HB 623**.

Appropriations and Revenue: **HB 622**.

Banking and Insurance: **HB 626**.

Cities: **HB 625**.

Economic Development and Tourism: **SCR 55**.

Education: **SB 207**.

Elections and Constitutional Amendments: **SB 223**.

Health and Welfare: **HB 629**.

Judiciary: **HB 621**, **HB 624**.

Labor and Industry: **HB 627**, **HB 628**.

Natural Resources and Environmental Protection: **HB 620**.

Transportation: **HB 630**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Economic Development and Tourism: **HB 396.**

Business Organizations and Professions: **HB 528.**

Cities: **SB 213, SB 214.**

Agriculture and Small Business: **HB 570.**

Health and Welfare: **HB 432, HB 448, HB 491, HB 492, SB 88.**

Education: **HB 444, HB 572, HB 606, HB 612, SB 123, SB 170, SB 78.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 584** and **SB 175** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 584, AN ACT relating to a referendum of corn producers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of corn shall be permitted and encouraged to act jointly and in cooperation with all producers, handlers, dealers, and processors of corn in promoting and stimulating, by utilization research, market maintenance and expansion, and education, the increased use and sale, domestic and foreign, of corn and corn products; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn and corn products to market.

SECTION 2. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Commissioner" means the Commissioner of Agriculture;

(2) "Board" means the State Board of Agriculture;

(3) "Corn" means all kinds and varieties of corn, except sweet corn and ornamental corns;

(4) "Bushel" means fifty-six (56) pounds of corn by weight or as otherwise defined by the United States Department of Agriculture (USDA);

(5) "Producer" means every person who produces and markets corn;

(6) "New producer" means a producer who was not engaged in the business of producing corn at the time a referendum was conducted in accordance with the provisions of this Act;

(7) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity;

(8) "Marketing year" means from September 1 to August 31 of the following year;

(9) "Purchaser" means any person, public or private corporation, federal Commodity Credit Corporation, association or partnership buying, accepting for shipment, or otherwise acquiring the property in or to corn from a producer, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer, when the actual or constructive possession of the corn is taken as part payment or in satisfaction of a mortgage, pledge, lien, or claim; and

(10) "Marketed" means any quantities that are sold, bartered, or for which other items of value are exchanged.

SECTION 3. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

No association meeting or activity undertaken in pursuance of the provisions of this Act and intended

to benefit all of the producers, handlers, dealers, and processors of corn shall be deemed or considered illegal or in restraint of trade.

SECTION 4. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of corn shall be permitted by referendum to be held among the respective groups and subject to the provisions of this Act to levy upon themselves an assessment on corn and provide for the collection of the assessment for the purpose of financing or contributing toward the financing of a program of research, market development, and education to increase the domestic and foreign consumption, use, sale, and markets for corn and corn products; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn and corn products to market.

SECTION 5. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

(1) Any existing association which is fairly representative of the corn producers of Kentucky, such as the Kentucky Corn Growers Association, may at any time after the effective date of this Act make application to the State Board of Agriculture on forms prescribed by the board for certification and approval for the purpose of conducting a referendum among the producers of corn upon the question of levying an assessment under the provisions of this Act and collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:

(a) Applicant's name;

(b) Applicant's address;

(c) Date;

(d) Program to be undertaken for producers;

(e) Brief statement of how the program is to be implemented;

(f) Referendum to be conducted on a statewide basis;

(g) Proposed effective date of the program; and

(h) Signature of the applicant.

(2) Upon receipt of the application, the Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt.

SECTION 6. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

Upon being certified by the Commissioner of Agriculture, the association shall be fully authorized and empowered to hold and conduct on the part of the producers of corn a referendum on the question of whether the producers shall levy upon themselves an assessment under, and subject to, and for the purpose stated in this Act. The referendum shall be conducted on a statewide basis.

SECTION 7. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

Any referendum conducted under the provisions of this Act shall be held on a statewide basis. The referendum may be participated in by all corn producers, including owners of farms on which corn is produced, and tenants and sharecroppers sharing in the proceeds of corn. In the referendum, individuals eligible for participation shall vote upon the question of whether there shall be levied an annual assessment in the amount set forth in the call for the referendum.

SECTION 8. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

The manner, conduct, and management of any referendum held under the provisions of this Act shall be under the supervision and direction of the Commissioner of Agriculture, and any and all expenses in connection therewith shall be borne by the association conducting the referendum.

SECTION 9. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

With respect to any referendum conducted under the provisions of this Act, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which the amount collected shall be applied. No annual

assessment levied under the provisions of any referendum shall exceed one fourth of one percent (0.25%) of the gross marketed price per bushel on the corn marketed in the state during a marketing year by any producer included in the group to which the referendum was submitted or by any person subsequently becoming a new producer.

SECTION 10. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

The hours, voting places, rules and regulations for the referendum shall be established and determined by the Commissioner of Agriculture and shall be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of the referendum, and direct written notice thereof shall likewise be given to each county or area agent in any county covered by the referendum. The notice shall likewise contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed one fourth of one percent (0.25%) of the gross marketed price per bushel, and shall likewise state the method by which the assessment shall be collected and how the proceeds shall be administered and the purposes to which the proceeds shall be applied, which purposes shall be in keeping with the provisions of this Act.

SECTION 11. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

The Commissioner of Agriculture shall prepare and distribute in advance of the referendum all necessary ballots and shall arrange for the necessary poll holders for conducting the referendum. Following the referendum and within ten (10) days thereafter, the Commissioner shall canvass and publicly declare the result of the referendum.

SECTION 12. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

If, in the referendum called under the provisions of this Act, a majority of the eligible producers, who vote therein, shall vote in the affirmative and in favor of the levying and collection of the assessment proposed in the referendum, the assessment shall be collected in the manner determined and announced by the association conducting the referendum.

SECTION 13. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

If a majority of the eligible producers in the referendum who vote therein shall vote in favor of the assessment, the Commissioner shall notify, by certified mail, all persons engaged in the business of purchasing corn in this state, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the gross marketed price of the corn. The assessment so deducted shall, on or before the fifteenth day of the month following the end of the month in which the corn is sold to the purchaser, be remitted by the purchaser to the duly certified association which conducted the referendum. The books and records of all the purchasers of corn shall at all times be open for inspection by the Commissioner of Agriculture or his duly authorized agents during regular business hours.

SECTION 14. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

There is hereby established a fund utilization committee composed of four (4) members appointed by the certified organization; two (2) members appointed by the association representing the largest number of corn farmers in the state; and one (1) member appointed by the Commissioner. These appointments shall be for terms of two (2) calendar years and each appointing body shall promptly file with the Commissioner the names of its respective appointees.

SECTION 15. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

The funds, including donations from individuals, concerns, corporations, and grants from the state or governmental agencies, shall be used for the purpose of promoting and stimulating, by research, market development and education, the increased use and sale, domestic and foreign, of corn and corn products; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn and corn products to market. None of these funds shall be used for lobbying as defined in KRS 6.250. The duly certified association receiving the assessment funds shall, upon the advice and consent of the fund utilization committee, use and disburse the same as follows:

(1) The association may first refund to itself therefrom the costs and expenses incurred in the conduct of the referendum;

(2) The association may spend or disburse the necessary funds therefrom for administrative costs and expenses, but no more than ten percent (10%) of the funds collected in any marketing year shall be so utilized; and

(3) The balance remaining shall be used for the purposes provided in this section, as determined by the fund utilization committee.

SECTION 16. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

If the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom the assessment shall have been levied and collected under the provisions of this Act, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasurer of the certified association a refund of the assessment collected from the producer; if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer.

SECTION 17. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

(1) The board shall review the assessment program annually. If, at the end of each year after the first year of the assessment program, the board determines that the producers in the referendum representing ten percent (10%) of the production of corn have indicated their dissatisfaction with the program by demanding a refund of the assessment collected from them, the Commissioner shall conduct a referendum among the producers. If, upon the referendum, a majority of the eligible producers, who vote therein, reject the program, it shall be terminated at the end of the marketing year in which the referendum was conducted; otherwise, the assessment program shall continue in force and effect.

(2) The Commissioner shall conduct a referendum five (5) years after the date of the first referendum and each subsequent five (5) year period thereafter to determine if the assessment should be continued or terminated.

(3) If the duly certified association of corn producers expresses in writing its desire to the Commissioner to discontinue the assessment program and terminate the program, the Commissioner shall within fifteen (15) days following receipt of the request convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the marketing year in which the board action is taken; and, in this event, the Commissioner shall notify, by certified mail, the purchasers of corn affected thereby of the termination of the program.

SECTION 18. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of this Act, the board or the duly certified association may make application to the Franklin Circuit Court for an order enjoining the act or acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

Section 19. KRS 247.994 is amended to read as follows:

(1) Any purchaser of soybeans ***or corn*** who violates, or fails or refuses to comply with the provisions of KRS 247.510 to 247.595 ***or this Act***, shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of the violation, or failing or refusing to comply with the provisions of KRS 247.510 to 247.595 ***or this Act*** shall constitute a separate offense.

(2) Any operator of a livestock market, meat packing establishment, or slaughter establishment who violates or fails or refuses to comply with the provisions of KRS 247.610 to 247.685 shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of the violation, or failing, or refusing to comply with the provisions of KRS 247.610 to 247.685 shall constitute a separate offense.

(3) Any operator of a tobacco warehouse, tobacco manufacturing establishment, or tobacco dealer who violates or fails or refuses to comply with the provisions of KRS 247.710 to 247.785 shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each failure to withhold or refusal to comply with the provisions of KRS 247.710 to 247.785 shall constitute a separate offense.

(4) Any egg handler who violates, or fails, or refuses to comply with the provisions of KRS 247.850 to 247.865 shall, upon conviction, be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of violating, or failing, or refusing to comply with the provisions of KRS 247.850 to 247.865 shall constitute a separate offense.

SB 175, AN ACT relating to protection of farm animal and research facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 437 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Animal" means any warm or cold blooded animal used in food or fiber production, agriculture, research, testing, or education including poultry, fish and insects;

(2) "Animal facility" means any vehicle, building, structure, or premises, where an animal or animal records are kept, handled, housed, exhibited, bred, or offered for sale;

(3) "Consent" means assent in fact, whether express or apparent;

(4) "Deprive" means to withhold an animal or other property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner, to restore the animal or other property only upon payment of reward or other compensation, or to dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely;

(5) "Effective consent" means consent by a person legally authorized to act for the owner. Consent is not effective if induced by force, threat, false pretenses, or fraud, if given by a person the actor knows is not legally authorized to act for the owner, if given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions, or if given solely to detect the commission of an offense;

(6) "Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor;

(7) "Person" means any individual, corporation, association, nonprofit corporation, joint stock company, firm, trust, partnership, two (2) or more persons having a joint or common interest, or other legal entity;

(8) "Possession" means actual care, custody, control, or management.

SECTION 2. A NEW SECTION OF KRS CHAPTER 437 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the caring, rearing, feeding, breeding, and sale of animals and animal products, and the use of animals in research, testing and education, represents vital segments of the economy of the state, that producers and others involved in the production and sale of animals and animal products and the use of animals in research and education have a vested interest in protecting the health and welfare of animals and the physical and intellectual property rights which they have in animals, and that there has been an increasing number of illegal acts committed against farm animal and research facilities. The General Assembly further finds that these illegal acts threaten the production of agricultural products, and jeopardize crucial scientific, biomedical, or agricultural research. And finally, the General Assembly finds that these illegal acts threaten the public safety by exposing communities to contagious diseases and damage research.

SECTION 3. A NEW SECTION OF KRS CHAPTER 437 IS CREATED TO READ AS FOLLOWS:

(1) A person commits an offense if, without the effective consent of the owner, the person acquires or otherwise exercises control over an animal facility, an animal from an animal facility, or other property from an animal facility, with the intent to deprive the owner of the facility, animal, or property and to disrupt or damage the enterprise conducted at the animal facility.

(2) A person commits an offense if, without the effective consent of the owner and with the intent to disrupt or damage the enterprise conducted at the animal facility, the person damages or destroys an animal facility or any animal or property in or on an animal facility.

(3) A person commits an offense if, without the effective consent of the owner and with the intent to disrupt or damage the enterprise conducted at the animal facility, the person enters an animal facility, not then open to the public, with the intent to commit an act prohibited by this section, remains concealed, with the intent to commit an act prohibited by this section, in an animal facility, or enters an animal facility and commits or attempts to commit an act prohibited by this section.

(4) A person commits an offense if, without the effective consent of the owner and with the intent to disrupt or damage the enterprise conducted at the animal facility, the person enters or remains on an animal facility, and the person had notice that the entry was forbidden, or received notice to depart but failed to do so. For purposes of this subsection "notice" shall mean oral or written communication by the owner or someone with apparent authority to act for the owner, fencing or other enclosure obviously designed to exclude intruders or to contain animals, or a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(5) A person commits an offense if, without the effective consent of the owner and with the intent to disrupt or damage the enterprise conducted at the animal facility, the person uses any records, materials, data, equipment or animals of the animal facility.

(6) A person commits an offense if the person possesses or uses records, material, data, equipment or animals of an animal facility or in any way copies or reproduces records or data of a research facility knowing or reasonably believing the records, materials, data, equipment, or animals to have been obtained from an animal facility without the effective consent of the owner.

SECTION 4. A NEW SECTION OF KRS CHAPTER 437 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provision of this Act shall be subject to a fine of not more than five thousand dollars ($5,000) or imprisoned for not less than six (6) months but not more than one (1) year, or both, for each violation.

(2) Any persons convicted of violating any provision of this Act shall be ordered jointly and severally to make restitution to the animal facility in the full amount of the reasonable cost of replacing materials, data, equipment or animals, and records that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated as a result of the violation.

(3) Nothing in this Act shall be construed to affect any other rights of a person who has been damaged by reason of a violation of this Act.

The Committee Amendment No. 1 to **SB 175** is as follows:

Amend printed copy of **SB 175** on page 5, lines 1-12, by deleting all the text thereon.

The Committee on Health and Welfare reported **HB 471** with Committee Substitute and Title Amendment attached thereto, **HB 510**, **HB 523** and **HCR 110** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 471, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by administrative regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by administrative regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the Social Security Act, its amendments and other federal acts and regulations. The secretary shall also promulgate administrative regulations to allow for between a forty percent (40%) and a forty-five percent (45%) ratable reduction in the method of calculating eligibility and benefits for aid to families with dependent children. In no instance shall grants to families with no income be less than the appropriate aid to families with dependent children grant maximum. As used in this section, "ratable reduction" means the percentage reduction applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(3) The secretary may by administrative regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by administrative regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may by administrative regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment.

The secretary may prescribe by administrative regulation standards of suitability for training and employment.

(8) To the extent permitted by federal law, scholarships, grants or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.

(9) ***To the extent permitted by federal law, any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam shall not be considered as income for the purpose of determining eligibility or continuing eligibility for public assistance and shall not be subject to a lien or be available for repayment to the Commonwealth for public assistance received by the recipient.***

(10 The cabinet shall include a special needs allowance to recipients of aid to families with dependent children for costs associated with education and training, limited to transportation to and from training or educational programs and child care costs necessary for participation in education and training programs. The cabinet shall promulgate administrative regulations setting forth the special needs which will be recognized and the circumstances under which they will be included, the amount of special needs allowances and the length of time recipients may receive such allowances. Such administrative regulations shall provide that work expenses and child care costs resulting from employment in an employment search program or a community work experience program shall not be special needs.

The Committee Substitute to **HB 471** is as follows:

HB 471, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by administrative regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by administrative regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the Social Security Act, its amendments and other federal acts and regulations. The secretary shall also promulgate administrative regulations to allow for between a forty percent (40%) and a forty-five percent (45%) ratable reduction in the method of calculating eligibility and benefits for aid to families with dependent children. In no instance shall grants to families with no income be less than the appropriate aid to families with dependent children grant maximum. As used in this section, "ratable reduction" means the percentage reduction applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(3) The secretary may by administrative regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by administrative regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may by administrative regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment.

The secretary may prescribe by administrative regulation standards of suitability for training and employment.

(8) To the extent permitted by federal law, scholarships, grants or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.

(9) ***To the extent permitted by federal law, any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam shall not be considered as income for the purpose of determining eligibility or continuing eligibility for public assistance and shall not be subject to a lien or be available for repayment to the Commonwealth for public assistance received by the recipient.***

(10 The cabinet shall include a special needs allowance to recipients of aid to families with dependent children for costs associated with education and training, limited to transportation to and from training or educational programs and child care costs necessary for participation in education and training programs. The cabinet shall promulgate administrative regulations setting forth the special needs which will be recognized and the circumstances under which they will be included, the amount of special needs allowances and the length of time recipients may receive such allowances. Such administrative regulations shall provide that work expenses and child care costs resulting from employment in an employment search program or a community work experience program shall not be special needs.

Section 2. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) For tax years beginning on or after January 1, 1982, except as otherwise provided in this section, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1985, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee; [~~and~~]

(e) Exclude Social Security and tier I railroad retirement benefits subject to federal income tax; ***and***

(f) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by

a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam.

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year; and

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 and by Section 214 of the Internal Revenue Code as it existed on December 31, 1975, except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h); and

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once; and

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year.

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in section 3401(f) and Section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

The Committee Title Amendment to the Committee Substitute to **HB 471** is as follows:

Amend printed copy of HCS to **HB 471** by amending the title to read as follows:

"AN ACT relating to Agent Orange."

HB 510, AN ACT relating to chemical dependency treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) As a requirement to receive state or federal funds, including Medicaid, a treatment center or program licensed as a chemical dependency treatment service pursuant to KRS 216B.040, 210.610 or this chapter shall submit an annual report to the Cabinet for Human Resources relating to treatment effectiveness.

(2) Information in the report shall include, but is not limited to, the following:

(a) The total number of alcohol and drug abuse clients admitted to treatment;

(b) The total number of referrals from the District and Circuit Courts and the Corrections Cabinet;

(c) The client's change in alcohol and other drug use patterns from admission to discharge from treatment;

(d) The client's change in employment status from admission to discharge from treatment; and

(e) The client's change in involvement with the criminal justice system from admission to discharge from treatment.

(3) All information collected pursuant to this Act shall be held confidential with respect to the identity of individual clients. Access to information that identifies individual clients may be provided to qualified persons or organizations with a valid scientific interest, as determined by the secretary of human resources, who are engaged in research related to patterns of drug and alcohol use, the effectiveness of treatment or similar studies and who agree in writing to maintain confidentiality.

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) All inpatient, residential or outpatient treatment centers or programs licensed as a chemical dependency treatment service pursuant to KRS 216B.040, 210.610 or this chapter receiving state or federal funds, shall provide follow-up reports one (1) year after a client is treated for chemical dependency.

(2) Follow-up reports on clients discharged from chemical dependency treatment programs shall be gathered and submitted to the Cabinet for Human Resources in a format to be determined by administrative regulations of the cabinet. The follow-up report shall measure the client's current alcohol or drug use patterns, employment status, educational status and involvement in the criminal justice system. Follow-up reports may be conducted through telephone or mail surveys of clients and the cost of reports shall be borne by the chemical dependency treatment program.

(3) The chemical dependency treatment program shall report follow-up information based on each client's assessment of progress after treatment and the program shall not be held accountable for the validity or accuracy of information reported in this manner.

(4) Clients who refuse to participate in the follow-up report or who cannot reasonably be located by the chemical dependency treatment program shall be noted in the follow-up report.

SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

Chemical dependency treatment programs shall not be considered for receipt of state funds if they:

(1) Do not submit reports as required by Section 1 of this Act; or

(2) Do not conduct follow-up reports of clients' drug and alcohol use as required by Section 2 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall annually submit to the Governor a treatment center evaluation report. The report shall include, but not be limited to, the following information:

(1) An inventory of all licensed chemical dependency treatment services in Kentucky;

(2) The information submitted by each treatment center or program pursuant to Sections 1 and 2 of this Act; and

(3) The employment, educational and criminal history of clients in each program that received state or federal funds.

HB 523, AN ACT relating to the extension of services to foster children.

WHEREAS, some children who enter foster care have their opportunities for educational achievement delayed by the events that led to their commitment to the Commonwealth or by multiple placements after their commitment; and

WHEREAS, some foster children do not possess the education and life skills required to care for themselves as responsible adults by age eighteen (18); and

WHEREAS, without remedy to their skill deficits such children may become a burden to the Commonwealth in their adult life;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.140 is amended to read as follows:

(1) In determining the disposition of all cases brought on behalf of dependent, neglected or abused children, the juvenile session of the District Court, in the best interest of the child, shall have, but shall not be limited to, the following dispositional alternatives:

(a) Informal adjustment of the case;

(b) Protective orders, such as the following:

1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting or making the child dependent;

2. Placing the child in his own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and

3. Orders authorized by KRS 403.740 and 403.750;

(c) Removal of the child to the custody of an adult relative, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child; or

(d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his attainment of the age eighteen (18). ***To allow participation*** [~~The court, in its discretion, upon motion of the child and with the concurrence of the cabinet, may authorize an extension of commitment up to age twenty-one (21) for the purpose of the child's participating~~] in state or federal educational programs or to permit the cabinet to assist the child in establishing independent living arrangements***, any person who is or has been committed to the cabinet as dependent, neglected, or abused may request that the court extend or reinstate their commitment up to the age of twenty-one (21). The request shall be made prior to the person's attaining eighteen (18) years and six (6) months of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).***

(2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

HCR 110, A CONCURRENT RESOLUTION establishing a Task Force on Involuntary Hospitalization.

WHEREAS, the institutionalization of a citizen is a critical issue that demands careful consideration of the rights of the individual, the need for treatment, the considerations of the family, and the protection of the community; and

WHEREAS, the Kentucky General Assembly has been called upon to revise the statutes regarding involuntary hospitalization of the state's mentally ill and retarded citizens in each regular legislative session for the past decade; and

WHEREAS, some of those statutes have recently been declared unconstitutional by the Western District Federal Court as violating the equal protection clause of the Constitution of the United States; and

WHEREAS, this ruling has been affirmed by the Sixth Circuit Federal Court of Appeals and the ruling of the court requires no immediate statutory change by the General Assembly; and

WHEREAS, the current statutory changes proposed by the Cabinet for Human Resources have been extensively revised after being circulated among the interested and affected parties resulting in a lack of consensus among those parties on the issues;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission shall create a Task Force on Involuntary Hospitalization and Treatment. The Task Force shall examine the present law governed by KRS Chapters 202A and 202B, the ruling of the Western Federal District Court and the Sixth Circuit Court of Appeals which declared a portion of those statutes unconstitutional, and other issues regarding the involuntary hospitalization and forced treatment of the mentally ill and mentally retarded in the Commonwealth of Kentucky. After due consideration, the Task Force on Involuntary Hospitalization and Treatment shall issue a report to the Legislative Research Commission recommending changes to KRS Chapters 202A and 202B that best serve the individual's rights and need for treatment, the protection of the community, and the needs of the family. The Task Force on Involuntary Hospitalization and Treatment shall convene no later than September 1, 1990.

Section 2. That in order to provide for the participation of interested and affected parties and allow those parties to develop a degree of consensus on these matters, the Task Force on Involuntary Hospitalization and Treatment shall include one (1) person from each of the following organizations to be named by their respective organization's executive officers: the District Judges Association, the County Attorney's Association, the Kentucky Legal Services Program, the Kentucky Alliance for the Mentally Ill, the Kentucky Psychiatric Association, the Concerned Families of the Retarded, Kentucky Advocates Taking Action in Kentucky Against Mental Illness, Kentucky Association for Retarded Citizens, and Kentuckians Together.

Also included on the Task Force on Involuntary Hospitalization and Treatment shall be the following persons:

(1) One (1) representative from the Cabinet for Human Resources Office of General Counsel, to be selected by the secretary of the Cabinet for Human Resources;

(2) The commissioner of the Department for Mental Health/Mental Retardation or designee thereof; and

(3) Two (2) members from the Department of Public Advocacy, to include the Public Advocate or designee thereof and the director of the Division of Protection and Advocacy or designee thereof.

(4) Two (2) members of the Interim Joint Judiciary Committee of the Kentucky General Assembly and two (2) members of the Interim Joint Committee on Health and Welfare of the Kentucky General Assembly to be named by the Legislative Research Commission.

Section 3. This report of findings and recommendations shall be submitted to the Legislative Research Commission no later than August 31, 1991.

Section 4. Staff services to be utilized in completing this study are estimated to cost $20,000.

These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Calendar

HB 398, HB 494 and **SB 122** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Bentley moved that the rules be suspended to act upon a Resolution and grant floor privileges to Belinda Mason. Agreed.

Representative Bentley moved the adoption of the following **HR 135**:

HR 135, A RESOLUTION honoring Belinda Mason.

WHEREAS, it is with pleasure and pride that this honorable body recognizes and commends a very special Kentucky citizen whose heroic efforts have touched the hearts of her fellow Kentuckians; and

WHEREAS, Belinda Mason, in 1987 received a blood transfusion contaminated with the AIDs virus, and since that time, has become a strong voice in the campaign to find a cure for this disease and in promoting the effort to educate citizens against the fear of AIDs; and

WHEREAS, Belinda Mason was awarded an Al Smith Fellowship in 1985 from the Kentucky Arts Commission for her one act play, ***The Gifts of the Spirit***; and

WHEREAS, Belinda Mason, on July 20, 1989, was named by President Bush to the National Commission on Acquired Immune Deficiency Syndrome; and

WHEREAS, during the summer of 1988, Belinda Mason founded Kentuckiana People with AIDs, and in April, 1989, she was elected president of the Washington-based association; and

WHEREAS, Belinda Mason received the 1989 Humanitarian Award from the Mountain Heritage Festival in Letcher County; and

WHEREAS, Belinda Mason, a native of Whitesburg, Letcher County, Kentucky, has spent countless hours of unselfish dedication in the fight against AIDs; and

WHEREAS, a life spent worthily should be measured by deeds, not years, and through her compassion, self-sacrifice, enthusiasm and genuine love and concern for her fellow man, Belinda Mason is worthy of the highest commendation; and

WHEREAS, Belinda Mason is the loving wife of Stephen Carden, dedicated mother of Polly and Clayton and adored daughter of Representative Paul Mason;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body salutes Belinda Mason for her past achievements and for her future endeavors in the continuing fight against AIDs.

Section 2. That when the House of Representatives adjourns this day, it does so in honor of Belinda Mason.

Section 3. That the Clerk of the House is directed to transmit four copies of this resolution to Representative Paul Mason, 380 Hazard Road, Whitesburg, Kentucky 41858.

HR 135 was adopted by voice vote.

Belinda Mason addressed the House.

Orders of the Day

HB 487 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 487** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 20, 1990 roll call on **HB 487** - Appendix.)

HB 487 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 487** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 400, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **HB 400**. Agreed.

Representative Crupper moved that **HB 400**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See February 20, 1990 roll call on **HB 400** - Appendix.)

HB 400, as amended, was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 400**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 59 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pritchett moved that **HB 59** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 20, 1990 roll call on **HB 59** - Appendix.)

HB 59 was passed and the title agreed to.

Representative Pritchett moved that the vote by which **HB 59** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 376 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 376** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 20, 1990 roll call on **HB 376** - Appendix.)

HB 376 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 376** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 344 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 344** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See February 20, 1990 roll call on **HB 344** - Appendix.)

HB 344 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 344** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 45 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Preston moved that **HJR 45** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 20, 1990 roll call on **HJR 45** - Appendix.)

HJR 45 was passed and the title agreed to.

Representative Preston moved that the vote by which **HJR 45** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 417 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 417** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 20, 1990 roll call on **HB 417** - Appendix.)

HB 417 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 417** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 68 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HJR 68** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 20, 1990 roll call on **HJR 68** - Appendix.)

HJR 68 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HJR 68** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 419 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HB 419** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 20, 1990 roll call on **HB 419** - Appendix.)

HB 419 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 419** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 108 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 108** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 20, 1990 roll call on **HB 108** - Appendix.)

HB 108 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 108** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 449, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Committee Substitute to **HB 449**. Agreed.

Representative Lewis moved that **HB 449**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 56, Nays 33. (See February 20, 1990 roll call on **HB 449** - Appendix.)

HB 449, by way of Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 449**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 285, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Committee Amendment No. 1 to **HB 285**. Agreed.

Representative Ridley moved that **HB 285**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 3. (See February 20, 1990 roll call on **HB 285** - Appendix.)

HB 285, as amended, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 285**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

The Speaker moved that a call of the roll be taken to show co-sponsors of **HR 135**.

On the roll call the vote was yeas 98—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, Worthington, Yates, Zimmerman. Nays 0.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 108, Representatives Donnermeyer, Kerr, Sheehan; **HB 221**, Representative Noe; **HB 243**, Representative Reinhardt; **HB 256**, Representatives Geveden, Hourigan, Moberly, Noland; **HB 598**, Representative Noe.

Representative Burch requested that he be withdrawn as co-sponsor to **HB 628**.

Introduction of Bills and Resolutions

HB 636, by Representative Priddy: AN ACT relating to the reporting of burns.

HB 637, by Representative Hancock: AN ACT relating to the Board of Claims.

HB 638, by Representative Johnson: AN ACT relating to damages for loss of consortium.

HB 639, by Representative Johnson: AN ACT relating to child support enforcement.

HB 640, by Representative O'Brien: AN ACT relating to highway right of way.

HB 641, by Representative LeMaster: AN ACT relating to payment of health insurance benefits.

HB 642, by Representative Little: AN ACT relating to economic development road projects.

HB 643, by Representative Little: AN ACT relating to an engineering scholarship program.

HB 644, by Representatives Brown, B. Richardson and A. Jones: AN ACT relating to determination of paternity.

HB 645, by Representative Deskins: AN ACT relating to coal mining regulation.

HB 646, by Representative Deskins: AN ACT relating to school attendance.

HB 647, by Representative Deskins: AN ACT relating to workers' compensation.

HB 648, by Representative Deskins: AN ACT relating to the Kentucky Disaster and Emergency Assistance Authority.

HB 649, by Representative A. Jones: AN ACT relating to a hospital cost containment commission and making an appropriation therefor.

HB 650, by Representative Morris: AN ACT relating to the Finance and Administration Cabinet.

HB 651, by Representative Blevins: AN ACT relating to contracts.

HB 652, by Representatives Morris and Bruce: AN ACT relating to highways.

HB 653, by Representatives Noe, Mack, Mason, P. Richardson, T. Jones, Barrows, Casebier, Keith, Geveden, Rapier, Lefevers, Kerr, Hourigan, McElroy, Jensen, Noland, Callahan, Ward, Moberly, Blevins, Richards, Bentley, Freibert, Scorsone, Heleringer, Curd, Castleman, Little, Adkins, Lile, Donnermeyer and Burch: AN ACT relating to teachers' retirement and declaring an emergency.

HB 654, by Representatives Lile and Casebier: AN ACT relating to the burning of fuels produced from hazardous waste in cement kilns and other heat recovery units.

HB 655, by Representative Ballard: AN ACT relating to the licensing of blasters.

HB 656, by Representative Ward: AN ACT relating to controlled substances.

HB 657, by Representatives Farrow, A. Jones, Scorsone, Richards and Lear: AN ACT relating to medical review organizations.

HB 658, by Representatives Farrow and P. Richardson: AN ACT relating to the state police.

Report of Committees

The Committee on Rules reported **HB 142, HB 356, HB 362, HB 385, HB 382, HB 496, HJR 105, HB 297, HB 319, HB 345, HB 352, HB 443, HB 470, HB 473, HB 532** and **HB 398** have been posted for passage in Orders of the Day, February 21, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 21, 1990: **HB 40, HB 434.**

The Committee on Rules reported the following Bill has been recommitted:

Transportation: **HB 490.**

The Committee on Rules reported **HB 30, HB 34, HB 158, HB 391, HB 465, HB 493, HB 10, HB 38, HB 332, HB 368, HB 413, HB 511, HB 516, SB 161, HB 494** and **SB 122** have been posted for passage in Orders of the Day, February 22, 1990.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 483.**

Energy: **HB 74.**

Judiciary: **HB 550, HB 600.**

Economic Development and Tourism: **HB 599.**

Appropriations and Revenue: **HB 579.**

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Appropriations and Revenue: **HB 244, HB 543, HB 3.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 503** with Committee Substitute attached thereto, and **HB 590** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 503, AN ACT relating to a referendum of milk producers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of milk and milk products, shall be permitted and encouraged to act jointly in promoting and stimulating, by educational and applied research programs, the increased production of any and all of these agricultural commodities.

SECTION 2. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Commissioner" means the Commissioner of Agriculture;

(2) "Board" means the State Board of Agriculture;

(3) "Producer" means every person who produces milk or cream from cows and thereafter causes the same to be marketed as milk, cream or other dairy products;

(4) "New producer" means a producer who was not engaged in the business of producing milk at the time a referendum was conducted in accordance with the provisions of this Act;

(5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity; and

(6) "Milk" means milk from cows and all of its natural components, sweet cream, sour cream, skim milk, flavored milk, buttermilk, condensed or concentrated whole or skim milk for use in milk products of every kind and description.

SECTION 3. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

No association meeting or activity undertaken in pursuance of the provisions of this Act and intended to benefit all of the producers of this agricultural commodity shall be deemed or considered illegal or in restraint of trade.

SECTION 4. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of milk and milk products on a commercial basis shall be permitted by referendum to be held among this group and subject to the provisions of this Act, to levy upon themselves an assessment on this commodity and provide for the collection of the assessment, for the purpose of financing or contributing toward the financing of educational and applied research programs to improve and enhance the production of milk and dairy products.

SECTION 5. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

(1) Any existing commission, council, board, association or other agency such as the Kentucky Milk Producers Association, fairly representative of the producers of the agricultural commodity referred to, may at any time after the enactment of this Act make application to the State Board of Agriculture on forms prescribed by the board for certification and approval for the purpose of conducting a referendum among the producers of the agricultural commodity, for commercial purposes, upon the question of levying an assessment under the provisions of this Act, collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:

(a) Applicant's name;

(b) Applicant's address;

(c) Date;

(d) Program to be undertaken for producers;

(e) Brief statement of how program is to be implemented;

(f) Referendum to be conducted on a statewide or area basis;

(g) Proposed effective date of program;

(h) Geographic area (by counties) of producers to be affected by program; and

(i) Signature of applicant.

(2) Upon receipt of the application, the Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt.

SECTION 6. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

Upon the filing with the State Board of Agriculture of the application on the part of any commission, council, board, association, or other agency of producers, the Commissioner shall within thirty (30) days thereafter convene the State Board of Agriculture to consider the application; and if upon the consideration the Board of Agriculture shall find that the commission, council, board or other agency making the application is fairly representative of and has been duly chosen and delegated as representative of the producers producing the commodity, and shall otherwise find and determine that the application is in conformity with the provisions of this Act and the purposes stated, then it shall be the duty of the Commissioner of Agriculture to certify the commission, council, board, association or other agency as the duly delegated and authorized group or agency representative of the producers of the agricultural commodity, and shall likewise certify that the agency is duly authorized to conduct among the producers of the commodity a referendum for the purpose stated.

SECTION 7. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

Upon being certified by the Commissioner of Agriculture in the manner set forth, the commission, council, board or other agency shall be fully authorized and empowered to hold and conduct on the part of the producers of the agricultural commodity a referendum on the question of whether or not the producers shall levy upon themselves an assessment under and subject to and for the purpose stated in this Act. The referendum may be conducted either on a statewide or area basis.

SECTION 8. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

Any referendum conducted under the provisions of this Act may be held either on an area or statewide basis, as may be determined by the certified agency before the referendum is called; and the referendum, on an area or statewide basis, may be participated in by all producers engaged in the production of the agricultural commodity on a commercial basis, including owners of farms on which the commodity is produced, tenants and sharecroppers sharing in the proceeds of the commodity. In the referendum, the individuals so eligible for participation shall vote upon the question of whether or not there shall be levied an annual assessment in the amount set forth in the call for the referendum.

SECTION 9. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

The manner, conduct, and management of any referendum held under the provisions of this Act shall be under the supervision and direction of the Commissioner of Agriculture, and any and all expenses in connection therewith shall be borne by the commission, council, board or other agency certified in accordance with the provisions of this Act.

SECTION 10. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

With respect to any referendum conducted under the provisions of this Act, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which the amount collected shall be applied. No annual assessment levied under the provisions of this Act shall exceed one and one-half percent (1 1/2%) of the value of the year's production of the agricultural commodity produced by any producer included in the group to which the referendum is submitted.

SECTION 11. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

The hours, voting places, rules and regulations and the area within which the referendum authorized with respect to the agricultural commodity referred to shall be established and determined by the Commissioner of Agriculture. The referendum date, area, hours, voting places, rules and regulations with respect to the holding of the referendum shall be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of the referendum, and direct written notice shall likewise be given to each county or area agent in any county in which the agricultural product is produced. The notice shall contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed one and one-half percent (1 1/2%) of the value of the year's production of the agricultural commodity grown by the producer included in the group to which the referendum is submitted, and shall likewise state the method by which the assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the proceeds shall be applied, which purposes shall be in keeping with the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

The Commissioner of Agriculture shall likewise prepare and distribute in advance of the referendum the question to be presented to the voters, and shall arrange for the necessary poll holders for conducting the referendum; and following the referendum and within ten (10) days thereafter the Commissioner shall canvass and publicly declare the result of the referendum.

SECTION 13. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

(1) If, in the referendum called under the provisions of this Act, a majority of the producers in the

area in which the referendum is conducted, eligible to participate and voting therein, shall vote in the affirmative and in favor of the levying and collection of the assessment proposed in the referendum on the agricultural commodity, then the assessment shall be collected in the manner determined and announced by the agency conducting the referendum.

(2) Any agricultural cooperative association organized under KRS Chapter 272 or any foreign agricultural cooperative association that has received a certificate of authority to conduct business in the Commonwealth in the same manner as a domestic agricultural cooperative association, on application to an approval by the Commissioner, may by an alternate procedure, not in conflict with the purposes of this Act, handle the collection and disbursement of the assessments of its members. The purchaser of the agricultural commodity of the members of the association shall be relieved of the collecting and reporting requirements of Section 14 of this Act with respect to the members.

SECTION 14. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

In the event a majority of the producers eligible for participation in the referendum and voting therein shall vote in favor of the assessment, then, upon the written request of the duly certified commission, council, board, association or other agency of producers of the agricultural commodity, the Commissioner shall notify forthwith, by certified mail, all persons engaged in the business of purchasing the agricultural commodities in this state, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the purchase price of the agricultural commodity. The assessment so deducted shall, on or before the fifteenth (15th) day of the month following the end of the month in which the commodity is sold to the purchaser, be remitted by the purchaser to the duly certified commission, council, board, association or other agency of the producers entitled to it. The funds, including donations from individuals, concerns, corporations and grants from the state or governmental agencies, shall be used for the purpose of promoting and stimulating, through educational and applied research programs, the increased production of the agricultural commodity. The books and records of all the purchasers of the agricultural commodity shall at all times during regular business hours be open for inspection by the Commissioner of Agriculture or his duly authorized agents.

SECTION 15. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

In the event the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom the assessment shall have been levied and collected under the provisions of this Act, if dissatisfied with the assessment and the result thereof, shall have the right to demand of and receive from the treasurer of the certified commission, council, board, association or other agency of producers a refund of the assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer.

SECTION 16. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

(1) The board shall review the assessment program annually. If, at the end of each year after the first year of the assessment program, the board determines that the producers in the referendum area representing fifty percent (50%) of the production of milk are not participating in the program, the Commissioner shall then conduct a referendum among the producers in the area. If, upon the referendum, a majority of the producers in the area eligible to participate and voting therein reject the program, it shall be terminated as at the end of the month in which the referendum for the area was conducted and held; otherwise the assessment program shall continue in force and effect.

(2) If the certified commission, council, board, association, or other agency of producers expresses in writing its desire to the Commissioner to discontinue the assessment program and terminate the assessment, the Commissioner shall within fifteen (15) days following receipt of the request convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the month in which the board action is taken; and in this event the Commissioner shall notify, by certified mail, the purchasers of the agricultural commodity of the termination of the program.

SECTION 17. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

Whenever in the judgment of the board or the certified commission, council, board, association or other agency of producers, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the sections of this Act, the board or the certified commission, council, board, association or other agency of producers may make application to the Franklin Circuit Court for an order enjoining the act or acts or practices and obtain a restraining order and preliminary injunction against the purchaser.

Section 18. KRS 247.993 is amended to read as follows:

Any purchaser of the agricultural commodity covered in KRS 247.450 to 247.505 ***or this Act*** who violates or fails or refuses to comply with any provision of KRS 247.450 to 247.505 ***or this Act*** shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense; each day of violation, or failing or refusing to comply with the provisions of KRS 247.450 to 247.505 ***or this Act*** shall constitute a separate offense.

The Committee Substitute to **HB 503** is as follows:

HB 503, AN ACT relating to a referendum of milk producers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of milk shall be permitted and encouraged to act jointly in promoting and stimulating, by educational and applied research programs, the increased production of this agricultural commodity.

SECTION 2. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Commissioner" means the Commissioner of Agriculture;

(2) "Board" means the State Board of Agriculture;

(3) "Producer" means every person who produces milk and causes the same to be marketed as milk;

(4) "New producer" means a producer who was not engaged in the business of producing milk at the time a referendum was conducted in accordance with the provisions of this Act;

(5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity;

(6) "Milk" means milk from cows and all of its natural components; and

(7) "Purchaser" means any person, including any distributor, processor, or bulk milk handler, who purchases or receives on consignment milk within the state for sale, shipment, storage, processing, or manufacture.

SECTION 3. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

No association meeting or activity undertaken in pursuance of the provisions of this Act and intended to benefit all of the producers of this agricultural commodity shall be deemed or considered illegal or in restraint of trade.

SECTION 4. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of milk on a commercial basis shall be permitted by referendum to be held among this group and subject to the provisions of this Act, to levy upon themselves an assessment on this commodity and provide for the collection of the assessment, for the purpose of financing or contributing toward the financing of educational and applied research programs to improve and enhance the production of milk.

SECTION 5. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

(1) Any existing commission, council, board, association or other agency such as the Kentucky Milk Producers Association, fairly representative of the producers of the agricultural commodity referred to, may at any time after the enactment of this Act make application to the State Board of Agriculture on forms prescribed by the board for certification and approval for the purpose of conducting a referendum among the producers of the agricultural commodity, for commercial purposes, upon the question of levying an assessment under the provisions of this Act, collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:

(a) Applicant's name;

(b) Applicant's address;

(c) Date;

(d) Program to be undertaken for producers;

(e) Brief statement of how program is to be implemented;

(f) Referendum to be conducted on a statewide or area basis;

(g) Proposed effective date of program;

(h) Geographic area (by counties) of producers to be affected by program; and

(i) Signature of applicant.

(2) Upon receipt of the application, the Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt.

SECTION 6. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

Upon the filing with the State Board of Agriculture of the application on the part of any commission, council, board, association, or other agency of producers, the Commissioner shall within thirty (30) days thereafter convene the State Board of Agriculture to consider the application; and if upon the consideration the Board of Agriculture shall find that the commission, council, board or other agency making the application is fairly representative of and has been duly chosen and delegated as representative of the producers producing the commodity, and shall otherwise find and determine that the application is in conformity with the provisions of this Act and the purposes stated, then it shall be the duty of the Commissioner of Agriculture to certify the commission, council, board, association or other agency as the duly delegated and authorized group or agency representative of the producers of the agricultural commodity, and shall likewise certify that the agency is duly authorized to conduct among the producers of the commodity a referendum for the purpose stated.

SECTION 7. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

Upon being certified by the Commissioner of Agriculture in the manner set forth, the commission, council, board or other agency shall be fully authorized and empowered to hold and conduct on the part of the producers of the agricultural commodity a referendum on the question of whether or not the producers shall levy upon themselves an assessment under and subject to and for the purpose stated in this Act. The referendum may be conducted either on a statewide or area basis.

SECTION 8. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

Any referendum conducted under the provisions of this Act may be held either on an area or statewide basis, as may be determined by the certified agency before the referendum is called; and the referendum, on an area or statewide basis, may be participated in by all producers engaged in the production of the agricultural commodity on a commercial basis, including owners of farms on which the commodity is produced, tenants and sharecroppers sharing in the proceeds of the commodity. In the referendum, the individuals so eligible for participation shall vote upon the question of whether or not there shall be levied an annual assessment in the amount set forth in the call for the referendum.

SECTION 9. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

The manner, conduct, and management of any referendum held under the provisions of this Act shall be under the supervision and direction of the Commissioner of Agriculture, and any and all expenses in connection therewith shall be borne by the commission, council, board or other agency certified in accordance with the provisions of this Act.

SECTION 10. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

With respect to any referendum conducted under the provisions of this Act, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at *least thirty (30) days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which the amount collected shall be applied. No annual assessment levied under the provisions of this Act shall exceed fifteen hundredths of one percent (0.15%) of the value of the year's production of the agricultural commodity produced by any producer included in the group to which the referendum is submitted.*

SECTION 11. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

The hours, voting places, rules and regulations and the area within which the referendum authorized with respect to the agricultural commodity referred to shall be established and determined by the Commissioner of Agriculture. The referendum date, area, hours, voting places, rules and regulations with respect to the holding of the referendum shall be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of the referendum, and direct written notice shall likewise be given to each county or area agent in any county in which the agricultural product is produced. The notice shall contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed fifteen hundredths of one percent (0.15%) of the value of the year's production of the agricultural commodity grown by the producer included in the group to which the referendum is submitted, and shall likewise state the method by which the assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the proceeds shall be applied, which purposes shall be in keeping with the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

The Commissioner of Agriculture shall likewise prepare and distribute in advance of the referendum the question to be presented to the voters, and shall arrange for the necessary poll holders for conducting the referendum; and following the referendum and within ten (10) days thereafter the Commissioner shall canvass and publicly declare the result of the referendum.

SECTION 13. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

(1) If, in the referendum called under the provisions of this Act, a majority of the producers in the area in which the referendum is conducted, eligible to participate and voting therein, shall vote in the affirmative and in favor of the levying and collection of the assessment proposed in the referendum on the agricultural commodity, then the assessment shall be collected in the manner determined and announced by the agency conducting the referendum.

(2) Any agricultural cooperative association organized under KRS Chapter 272 or any foreign agricultural cooperative association that has received a certificate of authority to conduct business in the Commonwealth in the same manner as a domestic agricultural cooperative association, on application to an approval by the Commissioner, may by an alternate procedure, not in conflict with the purposes of this Act, handle the collection and disbursement of the assessments of its members. The purchaser of the agricultural commodity of the members of the association shall be relieved of the collecting and reporting requirements of Section 14 of this Act with respect to the members.

SECTION 14. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

In the event a majority of the producers eligible for participation in the referendum and voting therein shall vote in favor of the assessment, then, upon the written request of the duly certified commission, council, board, association or other agency of producers of the agricultural commodity, the Commissioner shall notify forthwith, by certified mail, all persons engaged in the business of purchasing the agricultural commodities in this state, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the purchase price of the agricultural commodity. The assessment so deducted shall be remitted by the purchaser to the duly certified commission, council, board, association or other agency of the producers entitled to it on or before the final day of the month following the end of the month in which the commodity is sold to the purchaser. The funds, including donations from individuals, concerns, corporations and grants from the state or governmental agencies, shall be used for the purpose of promoting and stimulating, through educational and applied research programs, the increased production of the agricultural commodity. The books and records of all the purchasers of the agricultural commodity shall at all times during regular business hours be open for inspection by the Commissioner of Agriculture or his duly authorized agents.

SECTION 15. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

In the event the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom the assessment shall have been levied and collected under the provisions of this Act, if dissatisfied with the assessment and the result thereof, shall have the right to demand of and receive from the treasurer of the certified commission, council, board, association or other agency of producers a refund of the assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer.

SECTION 16. A NEW SECTION OF KRS 247.865 TO KRS 247.900 IS CREATED TO READ AS FOLLOWS:

(1) The board shall review the assessment program annually. If, at the end of each year after the first year of the assessment program, the board determines that twenty-five percent (25%) of the producers in the referendum area are not participating in the program, the Commissioner shall then conduct a referendum among the producers in the area. If, upon the referendum, a majority of the producers in the area eligible to participate and voting therein reject the program, it shall be terminated as at the end of the month in which the referendum for the area was conducted and held; otherwise the assessment program shall continue in force and effect.

(2) If the certified commission, council, board, association, or other agency of producers expresses in writing its desire to the Commissioner to discontinue the assessment program and terminate the assessment, the Commissioner shall within fifteen (15) days following receipt of the request convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the month in which the board action is taken; and in this event the Commissioner shall notify, by certified mail, the purchasers of the agricultural commodity of the termination of the program.

SECTION 17. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

Whenever in the judgment of the board or the certified commission, council, board, association or other agency of producers, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the sections of this Act, the board or the certified commission, council, board, association or other agency of producers may make application to the Franklin Circuit Court for an order enjoining the act or acts or practices and obtain a restraining order and preliminary injunction against the purchaser.

Section 18. KRS 247.993 is amended to read as follows:

Any purchaser of the agricultural commodity covered in KRS 247.450 to 247.505 ***or this Act*** who violates or fails or refuses to comply with any provision of KRS 247.450 to 247.505 ***or this Act*** shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense; each day of violation, or failing or refusing to comply with the provisions of KRS 247.450 to 247.505 ***or this Act*** shall constitute a separate offense.

HB 590, AN ACT relating to purebred cattle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.250 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Department" means the Department of Agriculture;

(b) "Commissioner" means the Commissioner of Agriculture;

(c) "Purebred" means registered by the appropriate association, organization or authority; and

(d) Neither "show" nor "exhibition" nor "show, exhibition and sale" shall include those held as a part of or in connection with any county or other local fair.

(2) The department shall aid, encourage, foster and promote the development and the improvement of the purebred cattle industry in Kentucky. To that end, the department shall promote, aid and assist in the promotion of annual shows and sales of purebred cattle in Kentucky with the object and purpose of establishing Kentucky as one (1) of the greatest centers in the United States for the breeding, producing, raising, exhibition, showing and sale of purebred cattle. The General Assembly shall make appropriations from the general expenditure fund for each fiscal year to effectuate that purpose.

(3) From the appropriations made pursuant to subsection (2) of this section, six thousand dollars ($6,000)

shall be used and applied in each fiscal year in each of the following events: Not less than four thousand dollars ($4,000) nor more than five thousand dollars ($5,000) shall be used and applied to the payment of premiums for the largest purebred Aberdeen-Angus, purebred Hereford, purebred Shorthorn, purebred Polled Hereford, purebred Charolaise, purebred Jersey, purebred Holstein-Friesian, purebred Guernsey, purebred Ayrshire, purebred Simmental, purebred Chianina, purebred Maine Anjou, Murray Grey, purebred Brown Swiss, purebred Limousin, purebred Santa Gertrudis, purebred Beefalo, purebred Red Poll, purebred Brahman, [~~and~~] purebred Brangus***, and purebred Salers*** show and sale which may be held in Kentucky in each fiscal year which is open on equal terms and conditions to all breeders in the United States who are eligible to enter any of the above shows and sales. The remainder shall be used and applied by the commissioner for appropriate advertising of the shows and sales in such livestock journals and other advertising media as the commissioner may determine.

(4) Any show, exhibition and sale of purebred cattle to be eligible to receive the appropriations must provide that the qualifications for entries in any class are equal to the qualifications for entries in all other classes receiving appropriations and that entries in all classes are open upon equal terms to the breeders of such cattle in all the states of the United States, and the Dominion of Canada may be included. The commissioner shall determine, with respect to each of the breeds of cattle, which show, exhibition and sale is the largest to be held in Kentucky in each year and, in making that determination, he may consider shows, exhibitions and sales which have been held in Kentucky in any previous year and in any previous two (2) year period.

(5) The remainder of the appropriations made pursuant to subsection (2) of this section for each fiscal year shall be used and applied by the department as follows: At least five thousand dollars ($5,000) shall be used to add premium money otherwise available for shows and exhibitions of purebred dairy cattle to be held in Kentucky at the places the commissioner determines; and the remaining balance shall be used and applied by the department in advertising and in promoting the purebred dairy cattle shows and exhibitions in such livestock journals and other advertising media as the commissioner may determine.

(6) No show or exhibition and no show, exhibition and sale of any purebred cattle shall qualify for or be eligible to receive any part of an appropriation made under this section, unless and until there is provided and made available from other sources an amount for premiums equal to, or in excess of, the respective appropriations made available pursuant to this section for the show or exhibition or show, exhibition and sale, or unless there is provided and made available from some other source an amount for premiums equal to, or in excess of, the amount which the commissioner may allocate to or for the show or exhibition or show, exhibition and sale under the authority vested in him by this section.

The Committee on Agriculture and Small Business reported **HB 557** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 557, AN ACT relating to agricultural finance and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.942 is amended to read as follows:

As used in KRS 247.940 to 247.978, the following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Agricultural loan" means a loan made by a lending institution to any person for the purpose of financing agricultural diversification and alternative crop production; land acquisition or improvement; soil conservation; irrigation; construction; renovation or expansion of buildings and facilities; purchase of farm fixtures, livestock, poultry, and fish of any kind; seeds; fertilizers; pesticides; feeds; machinery; equipment; containers or supplies or any other products employed in the production, cultivation harvesting, storage, marketing, distribution or export of agricultural products;

(2) "Applicant" means any person, partnership, corporation or any entity engaged in an agricultural endeavor or an agriculturally related business. To be considered an "applicant" under this definition, it is necessary that ***either:***

(a) The prospective applicant ***be a "first-time farmer" as defined by the federal government who derives*** [~~derive~~] at least one-half (1/2) of ***his*** [~~its~~] annual gross income from said endeavor or business, for three (3) years after the loan is approved. Furthermore, under this definition the prospective applicant shall not derive more than one-hundred thousand dollars ($100,000) annual net income from all [~~its~~] sources during the fiscal year preceding the year in which the loan application is made; ***or***

(b) The prospective applicant be a Kentucky citizen currently engaged in an agricultural endeavor; derive

at least three-fourths (3/4) of his annual gross income from farming or other agricultural endeavors; and shall not derive more than fifty thousand dollars ($50,000) annual net income from all sources, including spousal income, in the tax year preceding application;

(3)[~~(2)~~] "Board" means the board of directors of the corporation;

(4)[~~(3)~~] "Bond resolution" or "resolution" means the formal document of the corporation authorizing its obligations;

(5)[~~(4)~~] "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under KRS 247.940 to 247.978;

(6)[~~(5)~~] "Commissioner" means the commissioner of agriculture;

(7)[~~(6)~~] "Commonwealth" means the Commonwealth of Kentucky;

(8)[~~(7)~~] "Corporation" means the Kentucky agricultural finance corporation created by KRS 247.944;

(9)[~~(8)~~] "Department" means the Department of Agriculture;

(10)[~~(9)~~] "Governmental agency" means any city, county or other political subdivision of the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state and any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing in the area of assistance to agriculture;

(11)[~~(10)~~] "Issuing agency capacity" means the action of the corporation in authorizing revenue bonds for a qualified project in accordance with the provisions of KRS 103.210 to 103.285 in which the corporation's liability is limited primarily to fiduciary duties;

(12)[~~(11)~~] "Lending agency capacity" means the action of the corporation in participating directly or indirectly in the making of loans to or the purchasing of loans of qualified applicants;

(13) "Lending institution" means any bank, bank or trust company, federal land bank, production credit association, bank for cooperatives, building and loan association, homestead, insurance company, investment banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, the federal government or any other financial institution authorized to do business in the Commonwealth of Kentucky or operating under the supervision of any federal agency or any corporation organized or operating pursuant to section 25 of the Federal Reserve Act.

(14)[~~(12)~~] "Obligations" means any bonds or notes authorized to be issued by the corporation under the provisions of KRS 247.940 to 247.978;

(15)[~~(13)~~] "Project" means any undertaking to provide for the financing of the acquisition, construction, renovation or improvement of land, buildings, machinery, equipment, and livestock in the area of agricultural enterprise; including growing, storing, processing, warehousing, marketing and distribution facilities in respect thereof or to provide for refinancing existing agricultural facilities;

(16)[~~(14)~~] "Trust agreement" means an indenture by and between the corporation and the corporate trustee setting forth the rights and duties of each relating to the authorization, sale, issuance, delivery and payment of the corporation's obligations; and

(17)[~~(15)~~] "Umbrella obligation" means bonds or notes issued by the corporation in its issuing agency capacity or its lending agency capacity under the provisions of KRS 247.940 to 247.978, the proceeds of which may be used in the financing of multiple projects for two (2) or more applicants.

Section 2. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, ***administrative*** regulations and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and ***administrative*** regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training and financial ability in relation to the project for which assistance is sought and ***any*** [~~such~~] other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue ***from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978*** [~~in its issuing agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth~~]; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 through 103.285; provided, however, that ***bonds or notes*** [~~obligations~~] issued by the corporation [~~in its issuing agency capacity~~] shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the ***Office of Financial Management and Economic Analysis*** [~~division of investment and debt management~~];

(4) [~~To issue in its lending agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth; provided, however, that bonds issued by the corporation in its lending agency capacity in accordance with KRS 247.950 shall be subject to the review of the division of investment and debt management;~~

~~(5)~~] To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5)[~~(6)~~] To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6)[~~(7)~~] To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock;

(7)[~~(8)~~] To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock;

(8)[~~(9)~~] To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9)[~~(10)~~] To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(10)[~~(11)~~] To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage and operate [~~such~~] real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber [~~such~~] real and personal property where necessary or appropriate to the purposes of the corporation ***subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding***;

(11)[~~(12)~~] To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12)[~~(13)~~] To procure insurance against any loss in connection with its operations in ***the*** [~~such~~] amounts and from ***any*** [~~such~~] insurers, as it may deem necessary or desirable;

(13)[~~(14)~~] To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract or agreement of any kind to which the corporation is a party;

(14)[~~(15)~~] To include in any borrowing ***those*** [~~such~~] amounts [~~as may be~~] deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory and legal fees and ***any*** [~~such~~] other expenses [~~as are~~] necessary or incident to ***any*** [~~such~~] borrowing;

(15)[~~(16)~~] To make and publish administrative regulations respecting its lending programs and ***any*** [~~such~~] other rules and regulations as are necessary to effectuate its corporate purposes;

(16)[~~(17)~~] To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978;

(17)[~~(18)~~] To accept gifts, devises, bequests, grants, loans, appropriations and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18)[~~(19)~~] To sue and be sued in its own name ***and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section***;

(19)[~~(20)~~] To maintain an office in the city of Frankfort and at ***any*** [~~such~~] other place or places as it may determine;

(20)[~~(21)~~] To employ fiscal consultants, engineers, attorneys, appraisers and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor; [~~and~~]

(21)[~~(22)~~] To invest any funds held in sinking funds, reserve funds or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

(a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

(b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

(c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

(d) Any other investment authorized by law for the investment of funds of the Commonwealth***;***

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance or foreclose on any mortgage, security interest or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;

(23) To insure, co-insure, reinsure, or cause to be insured, co-insured or reinsured, agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive premiums on insurance, co-insurance or reinsurance, and establish reserves for losses, and participate in the insurance, co-insurance or reinsurance of agricultural loans, mortgage loans or mortgage, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts,

checks, bills of exchange, acceptances, bankers acceptances, cable transfers, letters of credit and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The corporation may purchase or contract to purchase and sell or contract to sell agricultural loans made by lending institutions. All lending institutions are hereby authorized to purchase and sell agricultural loans to the corporation in accordance with the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation.

(2) The corporation may make, or contract to make, loans to and deposits with lending institutions. All lending institutions are hereby authorized to borrow funds and accept deposits from the corporation in accordance with the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation. The corporation shall require that all proceeds of its loans to or deposits with lending institutions, or an equivalent amount, shall be used by the lending institutions to make agricultural loans, subject to the terms and conditions as the corporation may prescribe.

(3) To the extent that any provisions of this section may be inconsistent with any provision of law governing lending institutions, the provisions of this section shall control.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The corporation is hereby authorized to insure and reinsure agricultural loans made by lending institutions, subject to the terms, conditions, limitations, collateral and security provisions, and reserve requirements as shall be determined by the corporation in accordance with the rules and administrative regulations adopted by the corporation.

(2) Unless otherwise determined by the corporation, insurance on agricultural loans shall be in the amount of one hundred percent (100%) of the unpaid principal and interest on each loan.

(3) An insured agricultural loan shall be in default when the holder of the loan makes application to the corporation for payment of insurance on the loan stating that the loan is in default in accordance with the terms of any agreement with respect to the insurance executed pursuant to this section.

(4) The corporation may enter into agreements with any person, lending institution or holder of an insured agricultural loan upon the terms as may be agreed upon between the corporation and any person, lending institution, or holder, to provide for the administration, applications therefore, repayment thereof, and to establish the conditions for payment of insurance by the corporation, and the servicing, suit upon, or foreclosure of insured agricultural loans.

Section 5. KRS 247.950 is amended to read as follows:

(1) The corporation is hereby authorized to provide for the issuance in its lending agency capacity and in its issuing agency capacity, at one (1) time or from time to time, of bonds*,* ***notes, renewal notes, refunding bonds, interim certificates, certificate of indebtedness, debentures, warrants, commercial paper or other obligations or evidences of indebtedness, hereinafter collectively referred to as "bonds or notes"*** [~~or notes~~] of the corporation in an amount not to exceed five hundred million dollars ($500,000,000). The principal of and the interest on ***these*** [~~such~~] bonds or notes shall be payable solely from the funds herein provided for ***the*** [~~such~~] payment. Notes may be made payable from the proceeds of the bonds or renewal notes or, in the event bond or renewal note proceeds are not available, ***the*** [~~such~~] notes may be paid from any available revenues or assets of the corporation.

(2) Bonds or notes of each issue shall be dated and may be redeemable prior to maturity at the option of the corporation under [~~such~~] terms and conditions as may be determined by the corporation.

(3) Bonds or notes shall bear interest at such rate or rates as may be determined by the corporation at a publicly advertised competitive sale or, at the discretion of the corporation, upon a private, negotiated basis.

(4) Bonds or notes shall mature as to principal and shall be payable as to interest upon ***the*** [~~such~~] terms as the corporation shall determine in light of the conditions of the municipal bond market at the time of their authorization; provided, however, that obligations issued to finance personal property shall not have a term in excess of the expected useful life of the property financed.

(5) The corporation shall determine the form and manner of the execution of the bonds or notes, denominations, ***medium*** and places of payment. In the event any officer of the corporation whose signature or a facsimile of whose signature shall appear on any bonds or notes attached thereto shall cease to be an officer before the delivery thereof, ***the*** [~~such~~] signature or facsimile shall nevertheless be valid and sufficient for all purposes as if said party had remained in office until delivery.

(6) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in [~~such~~] a manner and under [~~such~~] restrictions as the corporation may determine in its bond resolution authorizing the issuance thereof or in the trust agreement.

(7) Bonds or notes of the corporation may be sold for a price in a manner and from time to time as may be determined by the corporation to be most beneficial, and the corporation may pay all expenses, premiums, fees or commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of KRS 247.940 to 247.978.

(8) The bonds or notes may be issued in coupon or in registered form, or both, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes.

(9) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Subject to the rights of the holders of the bonds of the corporation, the corporation is hereby authorized and empowered to issue from time to time its bonds for the purpose of refunding any bonds of the corporation then outstanding, together with the payment of any redemption premiums thereon and interest accrued or to accrue to the date of redemption of such outstanding bonds. All the refunding bonds of the corporation shall be issued, sold or exchanged, and delivered, shall be secured, and shall be subject to the provisions of KRS 247.940 to 247.978 in the same manner and to the same extent as any other bonds issued by the corporation pursuant to KRS 247.940 to 247.978, unless otherwise determined by resolution of the corporation. Refunding bonds issued by the corporation as herein provided may be sold or exchanged for outstanding bonds of the corporation and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of the outstanding bonds.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

In consideration of the acceptance of and payment for the bonds of the corporation by the holders thereof, the Commonwealth does hereby pledge to and agree with the holders of any bonds of the corporation issued pursuant to the provisions of KRS 247.940 to 247.978, that the Commonwealth will not impair, limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the holders of the bonds of the corporation, or in any way impair the rights or remedies of the holders thereof, until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the Commonwealth in any agreement with the holders of bonds of the corporation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of the provisions of KRS 247.940 to 247.978 shall be deemed to be trust funds to be held and applied solely as provided in the provisions of KRS 247.940 to 247.978. The resolution authorizing any obligations or the trust agreement securing the same may provide that any of the moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, the moneys shall be deposited shall act as trustee of these moneys and shall hold and apply the same for the purposes hereof, subject to administrative regulations promulgated pursuant to the provisions to KRS 247.940 to 247.978, and as any resolution or trust agreement may provide. Any moneys of the corporation may be invested as provided in KRS 247.946.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of any contract with the holders of its bonds, the corporation shall establish a system of accounts.

(2) The corporation may cause an independent audit of its books and accounts to be prepared annually and the cost thereof may be paid from any available moneys of the corporation.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) All Commonwealth officers and agencies are authorized to render services to the corporation within their respective functions as may be requested by the corporation.

(2) Construction of KRS 247.940 to 247.978, being necessary for the welfare of the Commonwealth and its residents, shall be liberally construed to effect the purposes thereof.

Section 11. KRS 247.978 is amended to read as follows:

The total amount of principal which a qualified applicant may owe to the corporation at any one time shall not exceed***:***

(a) Two-hundred fifty thousand dollars ($250,000) ***for applicants as defined in subsection (2)(a) of Section 1 of this Act; or***

(b) Fifty thousand dollars ($50,000) for applicants as defined in subsection (2)(b) of Section 1 of this Act.

Section 12. To carry out the purposes of this Act for qualified applicants as defined in subsection (2)(b) of Section 1 of this Act:

(1) The Kentucky Agricultural Finance Corporation is hereby authorized to issue up to $20,000,000 in revenue bonds to be deposited in a revolving loan fund which is hereby established.

(2) There is hereby appropriated to the Kentucky Agricultural Finance Corporation out of the general fund the sum of $900,000 in fiscal year 1990-91 for issuance cost, insurance, initial debt service, and reserve for the bond issue authorized in subsection (1) of this section.

The Committee Amendment No. 1 to **HB 557** is as follows:

Amend printed copy of **HB 557** on page 5, after line 6, by inserting the following:

"Section 2. KRS 247.944 is amended to read as follows:

(1) There is hereby created and established the Kentucky Agricultural Finance Corporation.

(2) The corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people through the promotion of agriculture through the Commonwealth.

(3) The corporation shall be governed by a board of directors consisting of ***twelve (12)*** [~~eleven (11)~~] members appointed by the Governor, three (3) of whom may be ex officio members of the board as follows:

(a) The commissioner or his designee;

(b) The secretary, Finance and Administration Cabinet, or his designee; and

(c) The Lieutenant Governor or his designee.

(4) The Governor may appoint eight (8) private members of the board to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, four (4) may continue in office for terms of one (1) year, two (2) for terms of two (2) years, one (1) for a term of three (3) years and one (1) for a term of four (4) years respectively, as the Governor may designate; at the expiration of said original terms and for all succeeding terms, the Governor may appoint a successor to the board for a term of four (4) years in each case. Of the initial eight (8) private members of the board appointed by the Governor, one (1) may be an officer from a commercial lending institution, one (1) may be an officer from a farm credit association, one (1) may be an agricultural economist, one (1) may be a tobacco farmer, one (1) may be a cash grain farmer, one (1) may be a livestock farmer, one (1) may be a dairy farmer, and one (1) may be from the equine industry. ***After the effective date of this Act, the Governor may appoint a horticultural farmer as an additional private member of the board for an initial four (4) year term.***

(5) Upon the expiration of the initial terms of the private members of the board, the Governor may appoint successors representing the same constituencies as the members succeeded for a term of four (4) years in each case. In the case of a vacancy, the Governor may appoint a successor to hold office during the remainder of the term.

(6) The board of directors shall annually elect one (1) of its members as chairman and one (1) of its

members as vice-chairman and shall also elect or appoint, and prescribe the duties of, such other officers as the board deems necessary or advisable, including, but not limited to, an executive director, secretary and legal counsel, and shall fix the compensation therefor.

(7) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely on such certifications.

(8) A majority of the board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies; provided, however, that a majority of the board may elect from among its members an executive committee to act in its stead in the day to day conduct of the business of the corporation. Notwithstanding the foregoing, the full board shall hold at least one (1) meeting each calendar quarter in accordance with a schedule to be established by the board.

(9) Action may be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum exists called upon three (3) days written notice or upon the concurrence of at least ***seven (7)*** [~~six (6)~~] directors or by the board's executive committee.

(10) All members of the board shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties. Each appointed member of the board shall be entitled to a fee of fifty dollars ($50.00) for attendance at each meeting of the board or executive committee."

And by renumbering all subsequent sections in the bill to correspond with the insertion of this section.

The Committee on Natural Resources and Environmental Protection reported **HB 32** with Committee Substitute and Committee Amendment attached thereto, **HB 36** with Committee Substitute attached thereto, **HB 173** with Committee Substitute attached thereto, **HB 517** and **HB 519** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 32, AN ACT relating to waste tires.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is established a trust fund in the treasury of the Commonwealth which shall be known as the "waste tire trust fund." The fund shall be used for programs to eliminate existing, and to prevent future, accumulations of waste tire piles which threaten the health of the public and the quality of the environment. The fund shall also be used to pay the costs of the cabinet to administer the programs established by this Act.

(2) All interest earned on money in the fund shall be credited to the fund.

(3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any person making retail sales of new motor vehicle tires within the Commonwealth shall pay a one dollar ($1.00) fee on each new tire sold. The fees shall be paid monthly to the Revenue Cabinet following the procedures and deadlines of the Revenue Cabinet for the collection of the sales tax. The Revenue Cabinet shall transfer monthly the fees collected to the treasury of the Commonwealth which shall deposit the money into the waste tire trust fund.

(2) The fee shall not be paid on the retail sale of recapped tires.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall implement a waste tire removal and control program. The purpose of the program shall be to:

(a) Manage waste tire piles which are a threat to the health of the public and the quality of the environment in order to prevent the spread of illnesses through insects or animals and to prevent fires until action can be taken to eliminate the waste tire piles;

(b) Eliminate existing accumulations of waste tires which are a threat to the health of the public and the quality of the environment; and

(c) Prevent the creation of new waste tire piles.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Until the full implementation of this Act and the elimination of existing waste tire piles can be achieved, the following requirements shall apply to all accumulations of more than thirty (30) waste tires:

(a) There shall be access readily available for fire fighting equipment to enter the property and to reach the waste tires; and

(b) The entrapment of water in the tires shall be prevented.

(2) In addition to meeting the requirements of subsection (1), accumulations of more than five hundred (500) waste tires shall also be arranged in separated groupings with enough space between the groupings to allow fire fighting equipment to pass between them.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may enter into agreements with the owners of waste tires for the removal of up to five hundred (500) tires at no cost to the owner if the owner agrees to relinquish all rights in the tires.

(2) The cabinet may enter into an agreement with a city, county or urban-county government for the removal of existing waste tire piles or for the removal of waste tires collected by the local government through a local community sponsored program. If income is derived from the disposal of the tires collected through a local community sponsored program, the local government shall be reimbursed for the cost of sponsoring the program.

(3) It shall be the duty of the cabinet to implement this program upon the effective date of this Act even if a use for the waste tires can not be found which would return income or another economic benefit to offset the costs of the program to the cabinet. However, it shall be the responsibility of the cabinet to find uses for the waste tires which are consistent with the purposes of this Act. If an immediate use can not be found for the waste tires, the cabinet shall render the tires suitable for segregated storage by preventing the entrapment of air or water in the tires and compile data concerning the location of the tires in order that they can be retrieved if a use becomes viable.

(4) To implement this program, the cabinet may contract with private persons for services to collect, transport, or dispose of waste tires.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No person shall:

(a) Accumulate more than thirty (30) waste tires without registering with the cabinet and certifying compliance with the waste tire control program requirements;

(b) Burn waste tires;

(c) Dispose of waste tires at a landfill unless the landfill operator has provided a means of rendering waste tires suitable for disposal in a landfill by preventing the entrapment of air or water in the tires; or

(d) Dispose of waste tires at an incinerator unless the incinerator has a permit allowing the burning of waste tires.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall require the registration with the cabinet of every accumulation of more than thirty (30) waste tires. This registration shall, at a minimum, inform the cabinet of the name and address of the owner of the tires, the address and location on the property of the waste tires, the reason for accumulating the tires, the number of tires and the rate at which the tires are accumulated. In addition to the information provided through the registration, the owner of the tires shall certify compliance with the requirements of the waste tire control program.

(2) The cabinet shall establish standards for controlling the accumulations of more than thirty (30) waste tires in order to prevent the health and environmental hazards resulting from waste tire piles. The standards shall include, at a minimum, requirements that fire fighting equipment have access to the waste tires, accumulations of more than five hundred (500) tires be stored with fire breaks to prevent fire from

spreading throughout a waste tire pile, that entrapment of water in the tires be prevented and that financial security be provided to pay for damages resulting from fires or abandonment of the tires.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish a loan fund to make low interest loans available to private interests in order to:

(a) Develop uses for waste tire material;

(b) Foster the collection and storage of waste tire materials; and

(c) Assist owners of accumulations of five hundred (500) or more waste tires to either remove or develop a use for the waste tires.

(2) The cabinet shall dedicate up to one-quarter (1/4) of the money in the waste tire trust fund each year for this program.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall enter into a memorandum of understanding with the Cabinet for Human Resources in order that the county health departments be utilized to aid in the enforcement of this Act. The cabinet shall reimburse the county health departments for expenses incurred to carry out this program.

(2) Violations of this Act shall be subject to the penalties in KRS 224.994(8).

SECTION 10. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

This Act shall become effective on January 16, 1991.

The Committee Substitute to **HB 32** is as follows:

HB 32, AN ACT relating to waste tires.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is established a trust fund in the treasury of the Commonwealth which shall be known as the "waste tire trust fund." The fund shall be used for programs to eliminate existing, and to prevent future, accumulations of waste tire piles which threaten the health of the public and the quality of the environment. The fund shall also be used to pay the costs of the cabinet to administer the programs established by this Act. The fund shall also be used to pay the costs of the Revenue Cabinet for administering and enforcing the fee established by this Act.

(2) All interest earned on money in the fund shall be credited to the fund.

(3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any person making retail sales of new motor vehicle tires within the Commonwealth, except as provided in Section 10 of this Act, shall pay a one dollar ($1.00) fee on each new motor vehicle tire sold. For the purposes of this Act a new tire shall mean a tire which has never been placed on a motor vehicle wheel rim. The fees shall be paid and reported to the Revenue Cabinet on or before the twentieth (20th) day of each month for the preceding month by each person making sales of new motor vehicle tires. The Revenue Cabinet shall transfer monthly the fees collected to the treasury of the Commonwealth which shall deposit the money into the waste tire trust fund.

(2) The report shall be filed on forms and contain information as the Revenue Cabinet may require. Payment of the fees levied by subsection (1) of this section shall accompany the required reports.

(3) For proper administration and compliance, the provisions of KRS Chapter 139 shall apply to the fee levied by this Act. All assessment and collection powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply to the assessment and collection of the fees levied by this Act.

(4) The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450(2).

(5) The Revenue Cabinet shall be reimbursed for its actual operational expenses incurred in administering and enforcing the fees levied pursuant to this section. The reimbursement shall not exceed one hundred thousand dollars ($100,000) per year.

(6) The fee shall not be paid on the retail sale of recapped tires.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall implement a waste tire removal and control program. The purpose of the program shall be to:

(a) Manage waste tire piles which are a threat to the health of the public and the quality of the environment in order to prevent the spread of illnesses through insects or animals and to prevent fires until action can be taken to eliminate the waste tire piles;

(b) Eliminate existing accumulations of waste tires which are a threat to the health of the public and the quality of the environment; and

(c) Prevent the creation of new waste tire piles.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Until the full implementation of this Act and the elimination of existing waste tire piles can be achieved, the following requirements shall apply to all accumulations of more than one hundred (100) waste tires:

(a) There shall be access readily available for fire fighting equipment to enter the property and to reach the waste tires; and

(b) The entrapment of water in the tires shall be prevented.

(2) In addition to meeting the requirements of subsection (1), accumulations of more than five hundred (500) waste tires shall also be arranged in separated groupings with enough space between the groupings to allow fire fighting equipment to pass between them.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may enter into agreements with the owners of waste tires for the removal of up to five hundred (500) tires at no cost to the owner if the owner agrees to relinquish all rights in the tires.

(2) The cabinet may enter into an agreement with a city, county or urban-county government for the removal of existing waste tire piles or for the removal of waste tires collected by the local government through a local community sponsored program. If income is derived from the disposal of the tires collected through a local community sponsored program, the local government shall be reimbursed for the cost of sponsoring the program.

(3) It shall be the duty of the cabinet to implement this program upon the effective date of this Act even if a use for the waste tires can not be found which would return income or another economic benefit to offset the costs of the program to the cabinet. However, it shall be the responsibility of the cabinet to find uses for the waste tires which are consistent with the purposes of this Act. If an immediate use can not be found for the waste tires, the cabinet shall render the tires suitable for segregated storage by preventing the entrapment of air or water in the tires and compile data concerning the location of the tires in order that they can be retrieved if a use becomes viable.

(4) To implement this program, the cabinet may contract with private persons for services to collect, transport, or dispose of waste tires.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No person shall:

(a) Accumulate more than one hundred (100) waste tires without registering with the cabinet and certifying compliance with the waste tire control program requirements;

(b) Burn waste tires;

(c) Dispose of waste tires at a landfill unless the landfill operator has provided a means of rendering waste tires suitable for disposal in a landfill by preventing the entrapment of air or water in the tires; or

(d) Dispose of waste tires at an incinerator unless the incinerator has a permit allowing the burning of waste tires.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall require the registration with the cabinet of every accumulation of more than one hundred (100) waste tires. This registration shall, at a minimum, inform the cabinet of the name and address of the owner of the tires, the address and location on the property of the waste tires, the reason for accumulating the tires, the number of tires and the rate at which the tires are accumulated. In addition to the information provided through the registration, the owner of the tires shall certify compliance with the requirements of the waste tire control program.

(2) The cabinet shall establish standards for controlling the accumulations of more than one hundred (100) waste tires in order to prevent the health and environmental hazards resulting from waste tire piles. The standards shall include, at a minimum, requirements that fire fighting equipment have access to the waste tires, accumulations of more than five hundred (500) tires be stored with fire breaks to prevent fire from spreading throughout a waste tire pile, that entrapment of water in the tires be prevented and that financial security be provided to pay for damages resulting from fires or abandonment of the tires.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish a loan fund to make low interest loans available to private interests in order to:

(a) Develop uses for waste tire material;

(b) Foster the collection and storage of waste tire materials; and

(c) Assist owners of accumulations of five hundred (500) or more waste tires to either remove or develop a use for the waste tires.

(2) The cabinet shall dedicate up to one-quarter (1/4) of the money in the waste tire trust fund each year for this program.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall enter into a memorandum of understanding with the Cabinet for Human Resources in order that the county health departments be utilized to aid in the enforcement of this Act. The cabinet shall reimburse the county health departments for expenses incurred to carry out this program.

(2) Violations of this Act shall be subject to the penalties in KRS 224.994(8).

SECTION 10. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall not apply within the counties of an area development district which have entered into an interlocal agreement respecting the disposal of all scrap tires generated within the boundaries of the counties which are parties to the interlocal agreement, provided that the interlocal agreement, at a minimum, provides:

(a) For the regulation of the storage and disposal of scrap tires;

(b) For the imposition of a fee of not less than one dollar ($1) for each scrap tire upon all disposers of scrap tires which shall be used pursuant to the interlocal agreement; and

(c) For a region-wide method of disposing or processing of scrap tires.

(2) Any area development district which has established a scrap tire program as provided in this section shall notify the cabinet that the program has been established and shall provide a copy of the interlocal agreement and enabling local legislation. The cabinet shall review the documents and if they satisfy the requirements of this section, the cabinet shall exempt persons making retail sales of new motor vehicle tires within the counties participating in the interlocal agreement from the payment of the fee required by Section 2 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Accumulations of no more than two hundred fifty (250) waste tires which are in use as of the effective date of this Act as an integral part of a business, and not for storage or disposal purposes, shall not be subject to this Act if the following conditions are met:

(1) The amount of tires in use shall not be increased; and

(2) Within one (1) year of the effective date of this Act, the owner of the tires either finds and uses a substitute for the accumulated tires or certifies to the cabinet that actions have been taken to prevent the spread of illnesses through insects or animals and to prevent fires.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

This Act shall become effective on January 16, 1991.

The Committee Amendment No. 1 to the Committee Substitute to **HB 32** is as follows:

Amend printed copy of HCS to **HB 32** on page 9, line 2, by deleting "***two hundred fifty (250)***" and substituting "***seven hundred fifty (750)***"; and

On page 9, line 4, by inserting after the word "***business,***" the following: "***including but not limited to safety barriers,***".

HB 36, AN ACT relating to the hazardous waste management assessment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.876 is amended to read as follows:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management and to leave the primary burden and responsibility for hazardous waste management on private industry; and further to finance assistance and coordination by imposing assessments on the generators of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with hazardous waste generation.

(2) The Natural Resources and Environmental Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances as defined in KRS 224.877 into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45.705 to 45.720 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the non-federal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (Public Law 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste management that results in a reduction of the generation of hazardous wastes within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste management to those industries whose products are reasonably related to the production of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste management assessment to be determined pursuant to this section according to the quantity by volume of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes" or waste oil. The assessment shall be reported and paid to the ***Natural Resources and Environmental Protection*** [~~revenue~~] Cabinet on a ***yearly*** [~~quarterly~~] basis ***at the time of submittal of the annual report required by KRS 224.864(1)(g)*** [~~on or before the twentieth (20th) day of the month after the end of each quarter~~]. The payment shall be accompanied by a report or return in ***a*** [~~such~~] form ***that*** [~~as~~] the [~~revenue~~] cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon ***the*** [~~said~~] business under this section shall be reduced by the amount of the federal assessment or tax upon ***the*** [~~said~~] business. [~~; provided, however, that~~] The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for ***these*** [~~said~~] purposes. The assessment shall be charged against generators of hazardous waste until June 30, ***2000.*** [~~1990, and~~] After ***this*** [~~such~~] date, no further hazardous waste management assessment shall be charged against generators.

(8) The assessment on generators shall be ***twenty*** [~~determined according to the following criteria for off-site treatment and disposal; the assessment for onsite treatment and disposal shall be one-half (1/2) of the amount as would be assessed for off-site treatment and disposal, except that onsite waste disposal facilities that incinerate, detoxify, solidify, neutralize or recycle hazardous waste shall be exempt unless the process involves the landfilling of hazardous waste.~~

~~(a) When the waste is destined for long-term containment without treatment, the assessment shall be two cents (2) per gallon initially, and shall increase by one cent (1) annually up to five~~] cents ***(20)*** [~~(5)~~] per gallon [~~in 1983 and remain at five cents (5) thereafter~~] if the waste is liquid, or ***ten dollars ($10)*** [~~two dollars and fifty cents ($2.50)~~] per cubic yard if the waste is solid.

(a) Wastewater shall be assessed at one-fifth (1/5) of the liquid waste rate for each one thousand (1,000) gallons of wastewater generated; and

(b) Waste treated or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate [~~Long-term containment includes disposal in a landfill, long-term storage, and other types of disposal specified by the cabinet;~~

~~(b) When a waste not suitable for a long-term containment is chemically treated, resulting in a material which is suitable for long-term containment but is still hazardous, the assessment shall be one cent (1) per gallon if the waste is a liquid or one dollar ($1) per cubic yard if the waste is solid;~~

~~(c) When the waste is destined for chemical treatment resulting in a material which is not hazardous as determined by testing criteria promulgated by the cabinet, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents (50) per cubic yard if the waste is solid; and~~

~~(d) When the waste is destined for destructive treatment by incineration or other means, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents (50) per cubic yard if the waste is solid~~].

(9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8)[~~(a) to (d)~~] of this section. The facility shall remit the assessment to the [~~revenue~~] cabinet on a ***yearly*** [~~quarterly~~] basis ***at the time the annual reports required by KRS 224.864(1)(g) are due*** [~~on or before the twentieth (20th) day of the month after the end of each quarter~~]. The payment shall be accompanied by a return [~~as~~] the [~~revenue~~] cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the [~~revenue~~] cabinet may, from any information in its possession, make an estimate and issue an assessment against ***the*** [~~such~~] generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return

or the due date as extended by the [~~revenue~~] cabinet, [~~then,~~] unless it is shown to the satisfaction of the [~~revenue~~] cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the [~~revenue~~] cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which ***it is*** filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the [~~revenue~~] cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the [~~revenue~~] cabinet.

(13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The [~~revenue~~] cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. When the state Treasurer certifies to the cabinet that the balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the state Treasurer certifies to the [~~revenue~~] cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000).

(14) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out ***these*** [~~said~~] duties except when immediate action is required to protect public health or the environment in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(15) If any person, responsible for a release or threatened release of a hazardous substance, fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, [~~then~~] the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(16) If disposal activities have occurred at a hazardous waste site, [~~then~~] the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(17) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

The Committee Substitute to **HB 36** is as follows:

HB 36, AN ACT relating to the hazardous waste management assessment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.876 is amended to read as follows:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management and to leave the primary burden and responsibility for hazardous waste management on private industry; and further to finance assistance and coordination by imposing assessments on the generators of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with hazardous waste generation.

(2) The Natural Resources and Environmental Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances as defined in KRS 224.877 into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45.705 to 45.720 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the non-federal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (Public Law 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste management that results in a reduction of the generation of hazardous wastes within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste management to those industries whose products are reasonably related to the production of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste management assessment to be determined pursuant to this section according to the quantity by volume of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes" or waste oil. ***The assessment shall not be imposed upon any person that is a secondary handler of hazardous waste.*** The assessment shall be reported and paid to the ***Natural Resources and Environmental Protection*** [~~revenue~~] Cabinet on a ***biannual*** [~~quarterly~~] basis ***on January 1 and June 30 of each year*** [~~on or before the twentieth (20th) day of the month after the end of each quarter~~]. The payment shall be accompanied by a report or return in ***a*** [~~such~~] form ***that*** [~~as~~] the [~~revenue~~] cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon ***the*** [~~said~~] business under this section shall be reduced by the amount of the federal assessment or tax upon ***the*** [~~said~~] business. [~~; provided, however, that~~] The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for ***these*** [~~said~~] purposes. The assessment shall be charged against generators of hazardous waste until June 30, ***2000.*** [~~1990, and~~] After ***this*** [~~such~~] date, no further hazardous waste management assessment shall be charged against generators.

(8) The assessment on generators shall be ***ten*** [~~determined according to the following criteria for off-site treatment and disposal; the assessment for onsite treatment and disposal shall be one-half (1/2) of the amount as would be assessed for off-site treatment and disposal, except that onsite waste disposal facilities that incinerate, detoxify, solidify, neutralize or recycle hazardous waste shall be exempt unless the process involves the landfilling of hazardous waste.~~

~~(a) When the waste is destined for long-term containment without treatment, the assessment shall be two cents (2) per gallon initially, and shall increase by one cent (1) annually up to five~~] cents ***(10)*** [~~(5)~~] per gallon [~~in 1983 and remain at five cents (5) thereafter~~] if the waste is liquid, or ***five dollars ($5)*** [~~two dollars and fifty cents ($2.50)~~] per cubic yard if the waste is solid***, except that facilities that recycle hazardous waste shall be exempt from any assessment.***

(a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;

(b) Waste treated, incinerated or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except that onsite waste disposal facilities that detoxify, solidify, neutralize, or recycle hazardous waste shall be exempt unless the process involves the landfilling of hazardous waste; and

(c) Waste containing less than one percent (1%) total organic carbons and less than one percent (1%)

total suspended solids, or waste that is subject to regulation under Section 402 or 307B of the federal Clean Water Act shall be exempt [~~Long-term containment includes disposal in a landfill, long-term storage, and other types of disposal specified by the cabinet;~~

~~(b) When a waste not suitable for a long-term containment is chemically treated, resulting in a material which is suitable for long-term containment but is still hazardous, the assessment shall be one cent (1) per gallon if the waste is a liquid or one dollar ($1) per cubic yard if the waste is solid;~~

~~(c) When the waste is destined for chemical treatment resulting in a material which is not hazardous as determined by testing criteria promulgated by the cabinet, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents (50) per cubic yard if the waste is solid; and~~

~~(d) When the waste is destined for destructive treatment by incineration or other means, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents (50) per cubic yard if the waste is solid~~].

(9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8)[~~(a) to (d)~~] of this section. The facility shall remit the assessment to the [~~revenue~~] cabinet on a ***biannual*** [~~quarterly~~] basis ***on January 1 and June 30 of each year*** [~~on or before the twentieth (20th) day of the month after the end of each quarter~~]. The payment shall be accompanied by a return [~~as~~] the [~~revenue~~] cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the [~~revenue~~] cabinet may, from any information in its possession, make an estimate and issue an assessment against ***the*** [~~such~~] generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the [~~revenue~~] cabinet, [~~then,~~] unless it is shown to the satisfaction of the [~~revenue~~] cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the [~~revenue~~] cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which ***it is*** filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the [~~revenue~~] cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the [~~revenue~~] cabinet.

(13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The [~~revenue~~] cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. ***All interest earned on the money deposited in the fund shall be deposited to the fund.*** When the State Treasurer certifies to the cabinet that the balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the State Treasurer certifies to the [~~revenue~~] cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000). ***The implementation of the cap on the fund shall be suspended from the effective date of this Act until July 1, 1991. In addition, for assessments paid after July 1, 1991 the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.***

(14) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out ***these*** [~~said~~] duties except when immediate action is required to protect public health or the environment in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(15) If any person, responsible for a release or threatened release of a hazardous substance, fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, [~~then~~]

the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(16) If disposal activities have occurred at a hazardous waste site, [~~then~~] the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(17) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

HB 173, AN ACT relating to water.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.140 is amended to read as follows:

(1) No person, business, industry, city, county, water district, or other political subdivision shall have the right to withdraw, divert, or transfer public water from a stream, lake, ground water source or other body of water, unless such person, business, industry, city, county, water district or other political subdivision has been granted a permit by the department for such withdrawal, diversion, or transfer of water. Provided, however, no permit shall be required for and nothing herein shall interfere with the use of water for agricultural and domestic purposes including irrigation; and no permit shall be required if the amount of water withdrawn, diverted or transferred is less than the amount established by regulation and no permit shall be required for water used in the production of steam generating plants of companies whose retail rates are regulated by the Kentucky public service commission or for which plants a certificate of environmental compatibility from such commission is required by law, or water injected underground in conjunction with operations for the production of oil or gas.

(2) Before a permit may be issued, the cabinet shall hold a public hearing on the permit application. The cabinet shall provide notice of the public hearing.

Section 2. KRS 151.170 is amended to read as follows:

(1) All permits issued under KRS 151.140 shall be specific in terms of quantity, time, place and rate of diversion, transfer or withdrawal of public water. Such permits represent a limited right of use and do not vest ownership nor an absolute right to withdraw or use the water.

(2) The cabinet shall issue a permit to the applicant if an investigation by the cabinet reveals that the quantity, time, place or rate of withdrawal of public water will not be detrimental to the public interests or rights of other public water users. No permit shall be denied to a responsible applicant who has established an amount of water for which he has a need for a useful purpose, provided the requested amount of water is available.

(3) A permit may be issued for an amount of water withdrawal less than that applied for, if found by the cabinet to be in the best interests of the public or other water users.

(4) Permits for the withdrawal, transfer, or diversion of public water may be amended at any time upon application to the cabinet by the withdrawer, or by the cabinet when the reports indicate that the withdrawer is using a substantially different amount than permitted. ***For a permit amendment which would affect a substantially different amount of water than permitted, the cabinet shall hold a public hearing before making a decision on the amendment and provide notice of the public hearing.***

The Committee Substitute to **HB 173** is as follows:

HB 173, AN ACT relating to water.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.140 is amended to read as follows:

(1) No person, business, industry, city, county, water district, or other political subdivision shall have the right to withdraw, divert, or transfer public water from a stream, lake, ground water source or other body of water, unless such person, business, industry, city, county, water district or other political subdivision has been granted a permit by the department for such withdrawal, diversion, or transfer of water. Provided, however, no permit shall be required for and nothing herein shall interfere with the use of water for agricultural and domestic purposes including irrigation; and no permit shall be required if the amount of water withdrawn, diverted or transferred is less than the amount established by regulation and no permit shall be required for water used in the production of steam generating plants of companies whose retail rates are regulated by the Kentucky public service commission or for which plants a certificate of environmental compatibility from such commission is required by law, or water injected underground in conjunction with operations for the production of oil or gas.

(2) (a) Before any permit for withdrawal, diversion, or transfer of water for sale to the public may be issued, the cabinet shall cause to be published in the newspaper with the largest circulation in the county in which the proposed activity is to be located, a public notice of the application. The notice shall describe the proposed activity, the waters affected, and the name and address of the applicant and of adjoining landowners.

(b) The notice shall also announce a comment period of not less than thirty (30) days commencing on the date of publication of the notice, and an opportunity for a public meeting on request of an interested person shall be provided, and the address to which comments and requests for hearing may be directed. The cabinet shall provide each commenter with notice of the final decision and a response to written and oral comments received.

Section 2. KRS 151.170 is amended to read as follows:

(1) All permits issued under KRS 151.140 shall be specific in terms of quantity, time, place and rate of diversion, transfer or withdrawal of public water. Such permits represent a limited right of use and do not vest ownership nor an absolute right to withdraw or use the water.

(2) The cabinet shall issue a permit to the applicant if an investigation by the cabinet reveals that the quantity, time, place or rate of withdrawal of public water will not be detrimental to the public interests or rights of other public water users. No permit shall be denied to a responsible applicant who has established an amount of water for which he has a need for a useful purpose, provided the requested amount of water is available.

(3) A permit may be issued for an amount of water withdrawal less than that applied for, if found by the cabinet to be in the best interests of the public or other water users.

(4) Permits for the withdrawal, transfer, or diversion of public water may be amended at any time upon application to the cabinet by the withdrawer, or by the cabinet when the reports indicate that the withdrawer is using a substantially different amount than permitted. ***Any permit amended under this subsection which affects water withdrawn for sale to the public shall comply with the public notice requirements of Section 1 of this Act.***

HB 517, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of this chapter, and all [~~rules,~~] regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with this chapter, or any [~~rule or~~] regulation which may be promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. ***The*** [~~Such~~] funds received by the cabinet shall be deposited in the State Treasury to the account of the cabinet;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;

(14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, [~~rule,~~] regulation or plan specified in subsections (5) and (6) of KRS 224.045;

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of this chapter, or the regulations promulgated pursuant thereto and requiring the adoption of [~~such~~] remedial measures [~~as~~] the cabinet may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under [~~such~~] conditions [~~as~~] the cabinet may prescribe and require that applications be accompanied by plans, specifications, and [~~such~~] other information [~~as~~] the cabinet deems necessary for the following permits:

(a) Permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; however, the cabinet may refuse to issue [~~such~~] permits to any person, or any partnership, corporation, ***or other entity*** [~~etc.~~] of which ***that*** [~~such~~] person owns more than ten percent (10%) interest, who has improperly constructed, operated or maintained a sewage system willfully, through negligence, or because of lack of proper knowledge or qualifications until ***the*** [~~such~~] time ***the*** [~~as that~~] person demonstrates proper qualifications to the cabinet and provides the cabinet with a performance bond;

(b) Permits for the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or

(c) Permits for the establishment or construction and the operation or maintenance of waste disposal sites and facilities.

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of ***the*** [~~such~~] exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at [~~such~~] locations and intervals [~~as~~] the cabinet may prescribe any equipment,

device or test and the methodologies and procedures for the use of ***the*** [~~such~~] equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning ***the*** [~~such~~] monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and [~~such~~] other information [~~as~~] the cabinet may require;

(24) Promulgate [~~rules,~~] regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste management which shall contain, but not be limited to, the provisions set forth in KRS 224.888, and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain, but not be limited to, the following:

(a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;

(b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;

(c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of [~~such~~] activities ***that*** [~~as~~] can be expected to continue for not less than twenty (20) years into the future; and

(d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of ***hazardous*** [~~such~~] wastes.[~~;~~]

The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;

(25) Perform [~~such~~] other [~~and further~~] acts ***that*** [~~as~~] may be necessary to carry out the duties and responsibilities herein described;

(26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards; and

(27) Promulgate [~~rules and~~] regulations concerning the bonding provisions of subsection (19)(a) of this section, setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release and forfeiture of ***the*** [~~such~~] bonds. All funds from the forfeiture of bonds required pursuant to this section shall be placed in the State Treasury and credited to a special trust and agency account which shall not lapse. ***The*** [~~Such~~] account shall be known as the "sewage treatment system rehabilitation und" and all moneys placed in the fund shall be used for the elimination of nuisances and hazards created by sewage systems which were improperly built, operated, or maintained, and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided; and

(28) Promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet.

(29) The Kentucky Department for Surface Mining Reclamation and Enforcement through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 224 regulated "surface coal mining operations" activities, as that term is defined under KRS 350.010(1). To ensure that these activities are properly carried out, the secretary of the Natural Resources and Environmental Protection Cabinet shall transfer necessary personnel, equipment, and budget to the Department for Surface Mining Reclamation and Enforcement to be under the exclusive control and jurisdiction of the Department for Surface Mining Reclamation and Enforcement. This exclusive control and jurisdiction shall continue only during that period of time during which the surface coal mining operations are permitted under KRS Chapter 350. However, exclusive jurisdiction to the Department for Surface Mining Reclamation and Enforcement shall be waived if the postmining land use is designated for solid or hazardous waste disposal.

HB 519, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.070 is amended to read as follows:

(1) Revisions which request extensions of the area covered by the permit, except incidental boundary revisions shall be made by application for another permit. The operator shall file an application, map and revised reclamation plan in the same form and with the same content as required for an original application under this chapter. ***He*** [~~and~~] shall pay a basic fee set by regulation and bearing a reasonable relationship to the cost of processing the permit application but not to exceed two hundred fifty dollars ($250), plus a fee set by regulation but not to exceed fifty dollars ($50) for each acre or fraction of an acre for the increase requested. ***He*** [~~, and~~] shall file with the cabinet a supplemental bond in the amount to be determined under the provisions of KRS 350.060 for each acre or fraction of an acre of the increase approved. If the cabinet approves a reduction in the acreage covered by the original or supplemental permit, it shall release the bond for each acre reduced, but [~~in no case shall~~] the bond ***shall not*** be reduced below ten thousand dollars ($10,000), except as provided in subsection (12) of KRS 350.060. If the cabinet approves a reduction in acreage covered by the original or supplemental permit, it shall transfer the acreage fee for each acre reduced to acreage fees in subsequent permit applications by the operator.

(2) The cabinet shall promulgate regulations specifying the permit application information requirements and procedures, including notice and hearing, which shall apply depending on the scale or extent of a revision.[~~; provided, that~~] Any permit revisions which propose significant alterations in the reclamation plan shall be subject to the notice and hearing requirements as set forth in the regulations of the cabinet.

(3) Incidental boundary revisions which shall not require public notice and which shall be deemed minor revisions are those that:

(a) Do not exceed ten percent (10%) of the initial permit acreage;

(b) Are contiguous with the permit acreage;

(c) Are within the same watershed as the initial permit acreage;

(d) Are an orderly continuation of the mining operation;

(e) Cover the same coal seam or seams as in the permit;

(f) Would only involve lands for which the hydrologic and geologic data and the probable hydrologic consequences analysis contained in the permit are applicable to the proposed incidental boundary revision;

(g) Would not involve properties designated as unsuitable for mining, or any properties eligible for listing on the National Register of Historic Places;

(h) Would not involve any of the special categories of mining listed in 30 CFR Part 785 including, but not limited to, prime farmland and coal preparation plants, unless the approved permit already includes the relevant category;

(i) Would not constitute a change in the method of mining; and

(j) Would be reclaimed in conformity with the initial reclamation plan.

(4) For the purpose of this section, the maximum acreage allowed to be added by an incidental boundary revisions shall be as follows:

(a) Surface operations shall be allowed up to twenty (20) acres;

(b) Underground operations shall be allowed up to ten percent (10%) of the original permitted acreage of the underground workings;

(c) Surface disturbances of underground mines including, but not limited to, face-up areas and haul roads, shall be allowed up to twenty (20) acres;

(d) The cumulative acreage added by successive revisions shall not exceed the above limitations.

The Committee Substitute to **HB 519** is as follows:

HB 519, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.070 is amended to read as follows:

(1) Revisions which request extensions of the area covered by the permit, except incidental boundary revisions shall be made by application for another permit. The operator shall file an application, map and revised reclamation plan in the same form and with the same content as required for an original application under this chapter. ***He*** [~~and~~] shall pay a basic fee set by regulation and bearing a reasonable relationship to the cost of processing the permit application but not to exceed two hundred fifty dollars ($250), plus a fee set by regulation but not to exceed fifty dollars ($50) for each acre or fraction of an acre for the increase requested. ***He*** [~~, and~~] shall file with the cabinet a supplemental bond in the amount to be determined under the provisions of KRS 350.060 for each acre or fraction of an acre of the increase approved. If the cabinet approves a reduction in the acreage covered by the original or supplemental permit, it shall release the bond for each acre reduced, but [~~in no case shall~~] the bond ***shall not*** be reduced below ten thousand dollars ($10,000), except as provided in subsection (12) of KRS 350.060. If the cabinet approves a reduction in acreage covered by the original or supplemental permit, it shall transfer the acreage fee for each acre reduced to acreage fees in subsequent permit applications by the operator.

(2) The cabinet shall promulgate regulations specifying the permit application information requirements and procedures, including notice and hearing, which shall apply depending on the scale or extent of a revision.[~~; provided, that~~] Any permit revisions which propose significant alterations in the reclamation plan shall be subject to the notice and hearing requirements as set forth in the regulations of the cabinet.

(3) Incidental boundary revisions shall be deemed minor revisions if they:

(a) Do not exceed ten percent (10%) of the initial permit acreage;

(b) Are contiguous with the permit acreage;

(c) Are within the same watershed as the initial permit acreage;

(d) Are required for an orderly continuation of the mining operation;

(e) Cover the same coal seam or seams as in the permit;

(f) Would only involve lands for which the hydrologic and geologic data and the probable hydrologic consequences analysis contained in the permit are applicable to the proposed incidental boundary revision;

(g) Would not involve properties designated as unsuitable for mining, or any properties eligible for listing on the National Register of Historic Places;

(h) Would not involve any of the special categories of mining listed in 30 CFR Part 785 including, but not limited to, prime farmland and coal preparation plants, unless the approved permit already includes the relevant category;

(i) Would not constitute a change in the method of mining; and

(j) Would be reclaimed in conformity with the initial reclamation plan.

(4) For the purpose of this section, the maximum acreage allowed to be added by an incidental boundary revisions shall be as follows:

(a) Surface operations shall be allowed up to twenty (20) acres;

(b) Underground operations shall be allowed up to ten percent (10%) of the original permitted acreage of the underground workings or twenty (20) acres, whichever is less;

(c) Surface disturbances of underground mines including, but not limited to, face-up areas and haul roads, shall be allowed up to twenty (20) acres;

(d) The cumulative acreage added by successive revisions shall not exceed the above limitations.

The Committee on State Government reported **HB 525, HB 544, HCR 109** with Committee Amendment attached thereto, **SB 135, SB 176** with Committee Substitute attached thereto, and **SB 185** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 525, AN ACT relating to disability retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.600 is amended to read as follows:

(1) An employee with sixty (60) months of service, twelve (12) months of which shall be current service, may retire at any time before his normal retirement date on account of disability upon written notification to the board. Application for disability benefits shall be made within twelve (12) months of his last paid day of employment. Upon the examination by licensed physicians, it shall be determined that the employee, since his last day of paid employment, has been mentally or physically incapacitated to perform his job or jobs of like duties from which he received his last paid employment and that the disability did not pre-exist at the time of initial employment or re-employment, except in case where a disabled recipient has returned to work on a trial basis and is a result of bodily injury, mental illness or disease and that the incapacity is deemed to be permanent.

(2) A disability shall be deemed to be permanent if that disability is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the employee's last day of paid employment. For the purposes of determining permanence under this section, the board's medical examiners shall use the medical criteria under the social security disability program.

(3) Employees who have previously qualified for disability retirement and have had benefits discontinued shall be re-evaluated under the criteria of subsection (2) of this section.

(4) A person whose last day of paid employment was July 13, 1984, or later, whose application for disability retirement was denied may refile for disability retirement if the denial was based upon the disability retirement criteria in effect between July 13, 1984, and July 14, 1988. A person who refiles under this subsection shall do so by July 15, 1992.

(5) A person whose reapplication for disability under subsection (4) of this section is successful shall be granted disability benefits retroactively, but no retroactive benefit shall be effective prior to July 15, 1988.

(6) A person who had received a refund of employee contributions and subsequently was awarded disability retirement benefits pursuant to subsection (4) of this section shall have that refund, plus interest at the current actuarial rate for the period between the refund and the date of the disability award, deducted from the amount of the award.

HB 544, AN ACT relating to administrative regulations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.330 is amended to read as follows:

(1) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day a subcommittee meets to consider the proposal pursuant to KRS 13A.290(7).

(2) Where a subcommittee fails to meet within thirty (30) days of assignment of a proposed regulation as provided in KRS 13A.290(7), the proposed regulation, amendment or repeal thereof shall become effective as of the expiration of such thirty (30) day period.

(3) ***(a) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.***

(b) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during the interim between regular sessions of the General Assembly, it shall expire on adjournment of the next succeeding regular session of the General Assembly.

(c) The provisions of this Act shall apply to all administrative regulations found deficient, including those found deficient during the 1990 regular session of the General Assembly [~~Any regulation which became effective or contains an amendment which became effective subsequent to a finding by either the administrative regulation review subcommittee or subsequently assigned subcommittee that the regulation or amendment thereto was deficient as provided in KRS 13A.030(2)(a), shall be effective only until the effective date for acts of the next succeeding regular session of the General Assembly on which date it shall expire, unless enacted into statute by the regular session of the General Assembly following its adoption~~].

(4) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (3) of this section shall prepare legislation proposing the enactment of such administrative regulation into statute [~~by the next regular session of the General Assembly~~]. Such legislation shall be submitted to the legislative research commission and may be introduced by any member of the General Assembly.

(5) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.

(6) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (3) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.

Section 2. Whereas, questions relating to the interpretation of existing statutes governing the expiration of administrative regulations require immediate resolution in order not to impede the implementation of statutes, the functioning of administrative bodies and the rights and obligations of those affected by the provisions of administrative regulations, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HCR 109, A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of expediting legislator traffic between legislators' offices, committee rooms and chambers.

WHEREAS, the Kentucky General Assembly convenes every two (2) years for sixty (60) days to conduct the people's business; and

WHEREAS, thousands of interested citizens of the Commonwealth visit the Capitol and Capitol Annex every session of the General Assembly; and

WHEREAS, the legislators' offices and committee rooms are located in the Capitol Annex, apart from the chambers of the House of Representatives and the Senate; and

WHEREAS, the pedestrian traffic in the tunnel connecting the Capitol and Capitol Annex is heavy and hinders expeditious movement to and from the Capitol; and

WHEREAS, the Capitol has only two (2) elevators which operate slowly, creating a traffic bottleneck in the Capitol basement;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission be directed to conduct a study of how to expedite legislator traffic between the legislators' offices and committee rooms in the Capitol Annex and the chambers of the House of Representatives and Senate.

Section 2. The results of the study, showing various options and the estimated cost of each option, shall be reported to the Legislative Research Commission no later than June 30, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost five thousand dollars ($5,000).

The Committee Amendment No. 1 to **HCR 109** is as follows:

Amend printed copy of **HCR 109** on page 2, line 6, by inserting after the word "options" the words "including enhanced elevator services".

SB 135, AN ACT relating to the Kentucky State Police legal fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a joint budget resolution to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a joint budget resolution to receive and disburse contributions, gifts, donations, devises and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all [~~such~~] receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust or agency account [~~so provided,~~] shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from ***the*** [~~such~~] approved charges shall be credited to the surplus account of the general fund. ***Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges.***

(6) The Department of Information Systems may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless ***the*** [~~such~~] services or materials are required by law to be furnished gratuitously. The receipts from ***the*** [~~such~~] authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, Department of Information Systems' operating account.

SB 176, AN ACT relating to appointments of the Governor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

When a statute specifically requires Senate confirmation of an appointment by the Governor, the appointment shall be handled in the following manner:

(1) All names of persons appointed when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

(2) Persons appointed to such positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session.

(3) If a person was appointed when the General Assembly was not in regular session, the Governor shall deliver the name of the appointee, together with such accompanying information as may expedite the consideration of the appointment to the Clerk of the Senate no later than the fifteenth legislative day of the next regular session of the General Assembly.

(4) When an appointment is made by the Governor during a regular session of the General Assembly, he shall submit the name of the appointee, together with such accompanying information as may expedite the consideration of the appointment to the Clerk of the Senate not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the appointee's name and information shall be submitted not more than one (1) legislative day later.

(5) If the Governor fails to submit the name or if the Senate declines or fails to confirm a nominee, the position shall become vacant as of sine die adjournment of the regular session of the General Assembly at which the appointment was to be confirmed.

(6) Any person not confirmed by the Senate shall not be reappointed by the Governor for a period of two (2) years, to the same position for which confirmation is required.

Section 2. Whereas, appointees for confirmation are presently before the General Assembly; and, whereas, these procedures would result in greater continuity and efficiency in government; and, whereas, the General Assembly finds it appropriate to implement these procedures at the present regular session, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor. For purposes of the 1990 General Assembly, the fifteenth legislative day requirement in Section 1(3) of this Act shall be replaced with the requirement that the Governor shall deliver the name of the appointee, together with such accompanying information as may expedite the consideration of the appointment, to the Clerk of the Senate within three days from the effective date of this Act.

The House Committee Substitute to **SB 176** is as follows:

SB 176, AN ACT relating to appointments of the Governor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

When a statute specifically requires Senate confirmation of an appointment by the Governor, the appointment shall be handled in the following manner:

(1) All names of persons appointed when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

(2) Persons appointed to such positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session.

(3) If a person was appointed when the General Assembly was not in regular session, the Governor shall deliver the name of the appointee, together with such accompanying information as may expedite the consideration of the appointment to the Clerk of the Senate no later than the fifteenth legislative day of the next regular session of the General Assembly.

(4) When an appointment is made by the Governor during a regular session of the General Assembly, he shall submit the name of the appointee, together with such accompanying information as may expedite the consideration of the appointment to the Clerk of the Senate not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the appointee's name and information shall be submitted not more than one (1) legislative day later.

(5) If the Governor fails to submit the name or if the Senate declines or fails to confirm a nominee, the position shall become vacant as of sine die adjournment of the applicable special or regular session of the General Assembly at which the appointment was to be confirmed.

(6) Any person not confirmed by the Senate shall not be reappointed by the Governor to the same position for which confirmation is required for a period of two (2) years from the date the Senate declined the nomination or the date of sine die adjournment if the Senate failed to confirm.

Section 2. Whereas, appointees for confirmation are presently before the General Assembly; and, whereas, these procedures would result in greater continuity and efficiency in government; and, whereas, the General Assembly finds it appropriate to implement these procedures at the present regular session, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor. For purposes of the 1990 General Assembly, the fifteenth legislative day requirement in Section 1(3) of this Act shall be replaced with the requirement that the Governor shall deliver the name of the appointee, together with such accompanying information as may expedite the consideration of the appointment, to the Clerk of the Senate within three days from the effective date of this Act.

SB 185, AN ACT relating to disasters and emergencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39.401 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Disaster and emergency response" means the preparation for and the carrying out of all emergency

functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from fire, flood, tornado, other natural or man caused disasters, riot, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies or other causes, and the threatened or impending happening of any of the above, and in order to insure that preparations and response for this state will be adequate to deal with disaster or emergencies or the threat of same. These functions include, without limitation, fire fighting services, police services, medical and health services, ambulance service, rescue, search and rescue, engineering, warning services, communications, radiological, chemical and other monitoring, decontamination and neutralization, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to effective reaction to a disaster or emergency situation, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

(2) "Declared emergency" means any incident or situation declared as such by executive order of the Governor ***or county judge/executive of a county other than an urban-county government, mayor of an urban-county government or mayor of a city, or their designees as provided by ordinance,*** pursuant to the provisions of this chapter.

(3) "Emergency management agency" means the Department of Military Affairs.

(4) "Director" means the Adjutant General of the Commonwealth of Kentucky.

(5) "Division" means the Division of Disaster and Emergency Services of the Department of Military Affairs.

(6) "Disaster" means any incident or situation declared as such by executive order of the Governor pursuant to the provisions of this chapter or by the president of the United States pursuant to federal law.

(7) "Areawide organization" means an area development district, or a functional committee thereof, as provided in KRS Chapter 147A.

Section 2. KRS 39.409 is amended to read as follows:

(1) In the event of occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39.400 or 39.401, the Governor may declare that a state of emergency exists, and [~~thereafter~~] the Governor shall have and may exercise for ***the*** [~~such~~] period as ***the*** [~~such~~] state of emergency exists or continues, the following emergency powers:

(a)[~~(1)~~] To enforce all laws, rules, and regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and helpers in the state;

(b)[~~(2)~~] To seize, take, or condemn property for the protection of the public or at the request of the President, the armed forces or the ***Federal Emergency Management Agency*** [~~defense civil preparedness agency~~] of the United States, including:

1.[~~(a)~~] All means of transportation and communication;

2.[~~(b)~~] All stocks of fuel of whatever nature;

3.[~~(c)~~] Food, clothing, equipment, materials, medicines, and all supplies; and

4.[~~(d)~~] Facilities, including buildings and plants;

(c)[~~(3)~~] To sell, lend, give, or distribute all or any such property among the inhabitants of the state and to account to the State Treasurer for any funds received for ***the*** [~~such~~] property;

(d)[~~(4)~~] To make compensation for the property so seized, taken, or condemned;

(e)[~~(5)~~] To exclude all nonessential personnel from the scene of ***the*** [~~such~~] emergency, and to command persons or groups assembled at ***the*** [~~said~~] scene to disperse;

(f)[~~(6)~~] To declare curfews and establish the limits of same;

(g)[~~(7)~~] To prohibit or limit the sale or consumption of goods or commodities for the duration of the emergency;

(h)[~~(8)~~] To perform and exercise [~~such~~] other functions, powers, and duties [~~as may be~~] deemed necessary to promote and secure the safety and protection of the civilian population.

(2) In the event of occurrence or threatened or impending occurrence of any of the situations or events

contemplated by KRS 39.400 or 39.401, the county judge/executive of a county other than an urban-county government, mayor of an urban-county government or mayor of a city, or their designees as provided by ordinance of the affected county, city or urban county may declare that a state of emergency exists, and thereafter shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:

(a) To enforce all laws, rules and regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces in the affected county, city or urban county;

(b) To exclude all nonessential personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse;

(c) To declare curfews and establish the limits of same;

(d) To order immediate purchase or rental of, contracts for or otherwise procure, without regard to procurement codes or budget requirements the goods and services essential for protection of public health and safety or to maintain or to restore essential public services;

(e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as found necessary for protection of public health and safety or for continuation of essential public services.

Section 3. KRS 39.411 is amended to read as follows:

If the owner of any property seized, taken or condemned pursuant to [~~subsection (2) of~~] KRS 39.409 refuses to accept as adequate the compensation fixed by the Governor, he may present a claim to the Board of Claims which shall hear and determine it according to the provisions of Chapter 44 of KRS and the regulations of the board. The provisions of KRS 44.070(2) shall not apply to claims presented pursuant to KRS 39.400 to 39.432 and 39.990.

Section 4. KRS 39.416 is amended to read as follows:

Each county, ***urban-county*** [~~metropolitan~~] government, and city shall have the power and authority:

(1) ***Through the county judge/executive of a county other than an urban-county government, mayor of an urban-county government or mayor of a city, or their designees as provided by ordinance, to declare a state of emergency when required to provide for adequate and appropriate response to any occurrence or situation or any impending event or situation resulting from any of the situations or events contemplated by KRS 39.400 or 39.401.***

(2) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for disaster and emergency response purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster or emergency; and to direct and coordinate the development of disaster and emergency plans and programs in accordance with the policies and plans prescribed by the federal and state disaster and emergency response agencies;

(3)[~~(2)~~] To appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other disaster and emergency response workers;

(4)[~~(3)~~] To establish a primary and one (1) or more secondary control centers to serve as command posts during an emergency;

(5)[~~(4)~~] Subject to the order of the Governor, or the chief executive of the county, ***urban-county*** [~~metropolitan~~] government, or city, to assign and make available for duty, the employees, property, or equipment of the county or city relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for disaster and emergency response purposes and within or outside of the physical limits of the county, ***urban-county*** [~~metropolitan~~] government, or city;

(6)[~~(5)~~] In the event of enemy attack or state of emergency as provided in KRS 39.409, to waive procedures and formalities otherwise required by the law pertaining to: the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution, with or without compensation, of supplies, materials, and facilities, and the appropriation and expenditure of public funds.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 584**, by Representative McElroy:

Amend printed copy of **HB** 584 on page 10, line 1, by deleting the word "***ten***" and the figures "***(10%)***" and replacing them with "***fifteen***" and "***(15%)***" respectively.

Floor Amendment No. 1 to the Committee Substitute to **SB** 47, by Representative Sheehan:

Amend printed copy of HCS to **SB 47** on page 28, line 3, by deleting the word "***fifty***" and inserting in lieu thereof "***forty-nine***"; and

On page 28, line 3, by deleting "***($50)***" and inserting in lieu thereof "***($49)***".

Floor Amendment No. 1 to the Committee Substitute to **HB 449**, by Representative Farrow:

Amend printed copy of HCS to **HB 449** on page 5, line 17, by adding thereafter: "***(13) If a county levies a license fee or tax upon insurance companies pursuant to this section, and twenty-five percent (25%) of the number of voters who voted in the last general election petition the fiscal court for an election on the question within thirty (30) days of the final reading of the ordinance levying the fee or tax, the fiscal court shall immediately direct the county clerk to put the question on the ballot for the next general election. No question on the license fee or tax shall be accepted for the ballot later than sixty (60) days before the next general election. Valid petitions submitted too late to satisfy the sixty (60) day limit shall cause the question to be placed on the ballot for the next succeeding general election. The question on the ballot shall be phrased to permit the voters to vote "yes" or "no" on the tax or fee. If a majority of those voting vote "no" on the fee or tax, it shall be rescinded on January 1 next following the election.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 449**, by Representative Farrow:

Amend printed copy of HCS to **HB 449** on page 5, line 17, by adding thereafter: "***(13) If a county levies a license fee or tax upon insurance companies pursuant to this section, and ten percent (10%) of the number of voters who voted in the last general election petition the fiscal court for an election on the question within thirty (30) days of the final reading of the ordinance levying the fee or tax, the fiscal court shall immediately direct the county clerk to put the question on the ballot for the next general election. No question on the license fee or tax shall be accepted for the ballot later than sixty (60) days before the next general election. Valid petitions submitted too late to satisfy the sixty (60) day limit shall cause the question to be placed on the ballot for the next succeeding general election. The question on the ballot shall be phrased to permit the voters to vote "yes" or "no" on the tax or fee. If a majority of those voting vote "no" on the fee or tax, it shall be rescinded on January 1 next following the election.***".

Floor Amendment No. 1 to **HB 399**, by Representative P. Richardson:

Amend printed copy of **HB 399** on page 3, line 20, after the "(9)" by inserting the following language: "***and vehicles engaged exclusively in the transportation of ready-mixed concrete***"

Floor Amendment No. 1 to the Committee Substitute to **HB 268**, by Representative Morris:

Amend printed copy of HCS to **HB** 268 on page 2, after line 8, by adding:

"***(5) At any time, the commissioner, after a public hearing of which at least thirty (30) days written notice has been given, may withdraw approval of rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged.***

(6)(a) Subsections (1) to (3) of this section shall not apply and premium rates shall be deemed approved upon filing with the Department of Insurance if the filing is accompanied by a loss ratio guarantee, and benefits shall be deemed reasonable in relation to the premium rates so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee shall be in writing and shall contain at least the following:

1. A recitation of the anticipated loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved by the commissioner;

2. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the loss ratio standards referred to in subparagraph 1. of this subsection. If the annual earned premium volume in Kentucky under the particular policy form is less than one million dollars ($1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form;

3. A guarantee that the actual Kentucky loss ratio results for each year at issue shall be independently audited at the insurer's expense. This audit shall be done in the second quarter of the next year and the audited results shall be reported to the commissioner not later than the date for filing the applicable accident and health policy experience exhibit;

4. A guarantee that affected Kentucky policyholders will be issued a proportional refund, based on premium paid, of the amount necessary to bring the actual aggregate loss ratio up to the anticipated loss ratio standards referred to in subparagraph 1. of this subsection. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of the last of the year at issue if the refund would equal ten dollars ($10.00) or more per policy. The refund shall include statutory interest from the end of the year at issue until the date of payment. Payment shall be made during the third quarter of the next year; and

5. A guarantee that refunds of less that ten dollars ($10.00) will be aggregated by the insurer and paid to the Department of Insurance.

(b) As used in this subsection, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations."

Floor Amendment No. 1 to **HB 38**, by Representative Ackerson:

Amend printed copy of **HB 38** on page 3, below line 3, to add the following:

"Section 2. KRS 500.050 is amended to read as follows:

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.

(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one year after it is committed.

(3) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

(4) Prosecution of a spouse for an offense in KRS Chapter 510 involving deviate sexual intercourse or sexual intercourse by the other spouse shall be commenced within one (1) year after the commission of the offense.".

Floor Amendment No. 1 to **HB 288**, by Representative Mason:

Amend printed copy of **HB 288** on line 1, by changing "350" to "351".

Floor Amendment No. 1 to **HB 496**, by Representative Yates:

Amend printed copy of **HB 496** on page 3, after line 6, by inserting the following:

"*(e) Nothing in this Section shall be construed to conflict with or overrule the authority for testing, removal, clean-up or post-monitoring by the Natural Resources and Environmental Protection Cabinet as authorized pursuant to KRS Chapter 224.*"

Floor Amendment No. 1 to **HB 231**, by Representative Jackson:

Amend printed copy of **HB 231** on page 2, beginning on line 16, and ending on line 20, by deleting the following new language:

"*Employer chargeability shall be determined under KRS 341.530(2), except if this would result in an employer being charged twice for benefit payments based on the same wages, the pooled account will be charged.*"

And by inserting in lieu thereof the following new language:

"*Benefits paid on the basis of an extended base period, which would not otherwise be payable, shall be charged to the pooled account.*"

The Clerk announced the cancellation of the following meetings:

The Committee on Elections and Constitutional Amendments, February 21, 1990.

The Committee on Economic Development and Tourism, February 21, 1990.

The Clerk announced the following meetings:

The Committee on Labor and Industry, February 21, 1990 at 8:30 a.m.

The Committee on Elections and Constitutional Amendments, February 26, 1990 at 2:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 21, 1990.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, Worthington, Yates, Zimmerman. Nays 4—Gray, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 21, 1990

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 20, 1990 be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 2** and **HB 76** have been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:03 p.m.))

HB 2 and **HB 76** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Senate Message

Announcing the passage of **SB 57, SB 148, SB 166, SB 171, SB 174, SB 205, SB 228, SB 255, HB 145** with Committee Amendments, **HB 47, HB 96, HB 103, HB 255, HB 295, HB 314, HB 329** and **HB 377.**

Introduction of Bills and Resolutions

HB 659, by Representative Gregory: AN ACT relating to trailer registration.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 634.**

Banking and Insurance: **HB 631, HB 641, SB 182.**

Business Organizations and Professions: **HB 655.**

Counties and Special Districts: **HB 632.**

Education: **HB 646, HB 653, SB 86, SB 215, SCR 3.**

Energy: **HB 637.**

Health and Welfare: **HB 633, HB 636, HB 657.**

Judiciary: **HB 638, HB 639, HB 644, HB 651, HB 656.**

Labor and Industry: **HB 647.**

Natural Resources and Environmental Protection: **HB 645, HB 654.**

State Government: **HB 648, HB 649, HB 650.**

Transportation: **HB 635, HB 640, HB 642, HB 643, HB 652, HB 658.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Elections and Constitutional Amendments: **SB 223, HB 15.**

Health and Welfare: **HB 542, HCR 122.**

Education: **HB 595, HB 653.**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Elections and Constitutional Amendments: **HB 170.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 223, HB 366** with Committee Amendment attached thereto, and **HB 596** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 223, AN ACT relating to county surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.320 is amended to read as follows:

Any court shall pay or order payment, as the case may be, of reasonable compensation relating to the nature of the work to the county surveyor, and his agents who assist him, for any services it orders the surveyor to perform pursuant to KRS 73.040. [~~The fees of surveyors for the following services shall be as follows:~~

~~Surveying a tract of land of not over 100 acres, and plat of same~~	~~$3.00~~
~~Each additional 50 acres, or fraction thereof~~	~~1.00~~
~~Surveying town lot, and plat thereof~~	~~1.00~~
~~Running a dividing line~~	~~2.00~~
~~Surveying land for a mill seat~~	~~3.00~~
~~Surveying patent land of not over 400 acres by the patent boundaries, and making plat thereof~~	~~3.00~~
~~Every 100 or fraction of 100 acres over 400~~	~~1.00~~
~~Each plat and connection~~	~~1.00~~
~~Each tract represented on a connected plat over two (2)~~	~~.50~~
~~Running a dividing line between two counties, to be paid by the new county, where one is made; and if between counties existing, to be paid by the counties equally interested, per day~~	~~5.00~~
~~Receiving and receipting for land warrant~~	~~.25~~
~~Copy of a certificate and survey~~	~~.50~~
~~Making an entry for land and copy~~	~~.25~~
~~Every survey made under an order of court, for every three poles~~	~~.01~~
~~Attending commissioners in dividing land or assigning dower, per day~~	~~2.00~~
~~Every plat from notes taken on the ground or furnished by the party, and calculating contents, with certificate attached~~	~~1.50~~
~~Each additional plat laid down from field notes, or from official documents with notes of explanation~~	~~.25~~
~~Each copy of such connected plat~~	~~.50~~
~~Processioning land, per day~~	~~3.00~~
~~Each connected plat thereof~~	~~.50~~
~~Each day's attendance on viewers of a road or passway~~	~~3.00~~
~~Each connected plat of same, metes and bounds, courses and distances, with explanatory notes and report~~	~~1.00~~
~~Each plat recorded pursuant to KRS 73.120, to be paid by the party interested~~	~~1.00~~
~~Each extra share, or tract connected with or represented thereon~~	~~.50~~
~~Plat and certificate of such record~~	~~1.00~~]

The surveyor may refuse to deliver to any party or file in court any plat or report of survey until his ***fees*** [~~costs~~] for making it have been paid.

HB 366, AN ACT relating to county road engineers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 179.070 is amended to read as follows:

The county engineer shall:

(1) Have general charge of all county roads and bridges within his county;

(2) See that county roads and bridges are improved and maintained as provided by law;

(3) Supervise the construction and maintenance of county roads and bridges and other work of like nature undertaken by the fiscal court;

(4) Make reports from time to time as the county or fiscal court directs;

(5) Advise and direct employes of contractors how best to repair, maintain and improve county roads and bridges;

(6) Examine the various formations and deposits of gravel and stone in his county to ascertain the materials most available and best suited for the improvement of roads therein, and, when requested by the bureau of highways, submit samples of such materials and deposits and make a written report concerning the materials;

(7) Establish or cause to be established necessary grades and recommend means of drainage, repair and improvement;

(8) Together with the fiscal court, consider and either reject or approve plans, specifications and estimates submitted for the erection or repair of bridges and the construction or maintenance of county roads;

(9) Inspect, or cause to be inspected, each county road or bridge during its construction or improvement, and certify to the fiscal court the progress of the work and whether or not the work is being done according to the contract, plans and specifications prepared therefor. If he finds that the work is not being done in accordance with the contract, plans and specifications, he may stop any further work thereunder until the fiscal court has inspected and passed upon it;

(10) Remove trees or other obstacles from the right of way of any publicly dedicated road when the tree or other obstacles become a hazard to traffic; and

(11) Make recommendation to municipal authorities in a county containing a city of the first class or the county judge/executive of a county containing a city of the first class for the establishment of speed limits by either in accordance with the powers granted to municipal authorities and the county judge/executive by KRS 189.390 (4) (a), and make recommendations to the county judge/executive for the establishment of parking restrictions by the county judge/executive in accordance with KRS 189.390 (4) (c);

(12) Make engineering and traffic investigations and make recommendations based thereupon to the fiscal court of counties containing a city of the first class for the adoption of traffic regulations for any publicly dedicated road in unincorporated portions of the county or for any road made a portion of a county through road system, established in accordance with KRS 178.330 or 178.333, or both, in any manner reasonably calculated to promote the safety and convenience of the traveling public and to protect and preserve the roads and streets. The fiscal court may adopt regulations which may include, but not be limited to, the establishment on roads, designated in the first sentence of this subsection, of traffic lanes, the installation or removal of electric signals and other signs and markers, the removal of traffic bumps, the limitation or prohibition of parking, and the regulation or prohibition of a size or weight deemed likely to impede traffic or injure the streets; provided, however, that if such regulation of size and weight of vehicles conflicts with state regulations, the latter shall prevail. Nothing herein shall be construed to prevent the fiscal court from contracting with city authorities for the joint installation of signs, markers, and electric signals and for their maintenance.

(13) In counties containing a city of the first ***or second*** class having the services of a county engineer every person, subdivider, builder, contractor or developer of any construction project shall submit to the county engineer for his written approval a site development plan providing for the proper drainage of surface water from the development or construction site so as to prevent flooding of property in the area. If the proposed site plan does not adequately provide for such drainage the county engineer shall order such changes as necessary before approving the site plan.

The Committee Amendment No. 1 to **HB 366** is as follows:

Amend printed copy of **HB 366** on page 2, line 20, by adding after the word "first" the words "***or second***"; and

on page 2, line 22, by adding after the word "first" the words "***or second***"; and

on page 3, line 5, by adding after the word "first" the words "***or second***".

HB 596, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 534 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other penalty prescribed by law, the court may order a person or corporation convicted of any crime to pay:

(a) Restitution to the victim of such crime when the victim has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out of pocket losses, or loss of earnings as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court may order the defendant to make restitution in addition to any other penalty provided for the commission of the offense; and

(b) Restitution to any city, county, or other governmental entity or agency for the reasonable expenses incurred for the adequate care and shelter of any animal or animals prior to trial of the defendant for violation of KRS 525.130.

(2) Payment of restitution to the victim shall have priority over payment of restitution to any government agency. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work for a public agency of the Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the State Treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court;

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out of pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

The Committee on Labor and Industry reported **HB 100** with Committee Substitute attached thereto, **HB 459** and **HB 561** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 100, AN ACT relating to contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.060 is amended to read as follows:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with subsections (8) and ***(11)***[~~(10)~~] of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the Uniform State Building Code, except that a building code adopted by a local government prior to March 28, 1978 may continue in effect until ***the*** [~~such~~] time [~~as~~] the Uniform State Building Code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional or high hazard occupancy; or assembly, business or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of ***the*** [~~such~~] permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. ***The*** [~~Such~~] determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review ***the*** [~~such~~] appeal according to the procedures found in subsections (8) to (12) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. ***The*** [~~Such~~] petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal ***the*** [~~such~~] denial directly to the board, and the board shall review ***the*** [~~such~~] appeal according to the procedures found in subsections (8) to (12) of KRS 198B.070. ***If*** [~~Should~~] the local government ***is*** [~~be~~] granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over ***the*** [~~such~~] additional responsibility, but the local government shall collect any fees for functions it performs pursuant to ***the*** [~~such~~] additional responsibility.

(6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 to 198B.090.

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8) Upon the effective date of the Uniform State Building Code, no building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for ***the*** [~~such~~] construction.

(9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of ***the*** [~~said~~] building. The applicant for a building permit, by the act of applying for the permit, ***shall be*** [~~is~~] deemed to have consented to inspection, by the local government or the department, of ***the*** [~~such~~] building during construction and upon the completion of construction for the purpose of determining that ***the*** [~~such~~] building is constructed in compliance with the Uniform State Building Code.

(10) ***No building permit shall be issued by any local government or a building department unless the contractor seeking the permit presents proof of meeting the requirements for federal and Kentucky income tax withholding, workers' compensation insurance according to KRS 342.340, unemployment insurance according to KRS 341.250 to 341.340 and all other pertinent state and local laws and regulations.***

(11) After a certified electrical inspector has been employed, contracted for or with, or otherwise provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(12)[~~(11)~~] This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the board of housing, buildings and construction, shall not be performed in order to conduct such tests or inspections.

(13)[~~(12)~~] No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions.

(14)[~~(13)~~] A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.

(15)[~~(14)~~] Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section ***if*** [~~provided that~~]:

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;

(c) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;

(d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and

(e) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(16)[~~(15)~~] If the department determines that an inspector is not enforcing the provisions of the Kentucky building codes, it shall require a hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector.

(17)[~~(16)~~] If, after written notification from the department to the inspector of the corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies.

(18)[~~(17)~~] Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. ***The*** [~~Such~~] fees shall be designed to fully cover the cost of the service performed but shall ***not*** [~~in no case~~] exceed the cost of the service performed. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

No state contract for any construction, maintenance or other type of public work shall be awarded unless the person seeking the contract presents to the awarding authority proof of meeting the requirements for federal and Kentucky income tax withholding, workers' compensation insurance according to KRS 342.340, unemployment insurance according to KRS 341.250 to 341.340 and all other pertinent state and local laws and regulations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

No contract for construction, maintenance or other type work on any state road, waterway or aviation related work, shall be awarded unless the person seeking the contract presents to the awarding authority proof of meeting the requirements for federal and Kentucky income tax withholding, workers' compensation insurance according to KRS 342.340, unemployment insurance according to KRS 341.250 to 341.340 and all other pertinent state and local laws and regulations.

The Committee Substitute to **HB 100** is as follows:

HB 100, AN ACT relating to contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.060 is amended to read as follows:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with subsections (8) and ***(11)***[~~(10)~~] of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the Uniform State Building Code, except that a building code adopted by a local government prior to March 28, 1978 may continue in effect until ***the*** [~~such~~] time [~~as~~] the Uniform State Building Code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional or high hazard occupancy; or assembly, business or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of ***the*** [~~such~~] permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. ***The*** [~~Such~~] determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review ***the*** [~~such~~] appeal according to the procedures found in subsections (8) to (12) of KRS 198B.070. No preemption by the department

shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. ***The*** [~~Such~~] petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal ***the*** [~~such~~] denial directly to the board, and the board shall review ***the*** [~~such~~] appeal according to the procedures found in subsections (8) to (12) of KRS 198B.070. ***If*** [~~Should~~] the local government ***is*** [~~be~~] granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over ***the*** [~~such~~] additional responsibility, but the local government shall collect any fees for functions it performs pursuant to ***the*** [~~such~~] additional responsibility.

(6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 to 198B.090.

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8) Upon the effective date of the Uniform State Building Code, no building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for ***the*** [~~such~~] construction.

(9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of ***the*** [~~said~~] building. The applicant for a building permit, by the act of applying for the permit, ***shall be*** [~~is~~] deemed to have consented to inspection, by the local government or the department, of ***the*** [~~such~~] building during construction and upon the completion of construction for the purpose of determining that ***the*** [~~such~~] building is constructed in compliance with the Uniform State Building Code.

(10) ***(a) No permit for building, construction, reconstruction, renovation, demolition or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition or maintenance shall be issued by any building department or by any political subdivision of the Commonwealth of Kentucky to any person seeking the permit unless the person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, on activity covered by the permit shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.***

(b) Any person who fails to comply with the assurances required under paragraph (a) of this subsection upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed ten thousand dollars ($10,000) or an amount equal to the sum of all uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.

(11) After a certified electrical inspector has been employed, contracted for or with, or otherwise provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(12)[~~(11)~~] This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the board of housing, buildings and construction, shall not be performed in order to conduct such tests or inspections.

(13)[~~(12)~~] No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions.

(14)[~~(13)~~] A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.

(15)[~~(14)~~] Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section *if* [~~provided that~~]:

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;

(c) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;

(d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and

(e) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(16)[~~(15)~~] If the department determines that an inspector is not enforcing the provisions of the Kentucky building codes, it shall require a hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector.

(17)[~~(16)~~] If, after written notification from the department to the inspector of the corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies.

(18)[~~(17)~~] Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. *The* [~~Such~~] fees shall be designed to fully cover the cost of the service performed but shall *not* [~~in no case~~] exceed the cost of the service performed. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) No state contract for building, construction, reconstruction, renovation, demolition or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition or maintenance shall be awarded by any agency, department or office of the Commonwealth of Kentucky or any political subdivision of the Commonwealth of Kentucky to any person until that person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, under the provisions of the contract shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.

(2) Any person who fails to comply with the assurances required under subsection (1) of this section, upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed ten thousand dollars ($10,000), or an amount equal to the sum of uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.

SECTION 3. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) No contract for building, construction, reconstruction, renovation, demolition, or other type work on any state road, waterway or aviation related work, shall be awarded by any agency, department or office of the Commonwealth of Kentucky or any political subdivision of the Commonwealth of Kentucky to any person until that person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, under the provisions of the contract shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.

(2) Any person who fails to comply with the assurances required under subsection (1) of this section, upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed ten thousand dollars ($10,000), or an amount equal to the sum of uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.

HB 459, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at ***the*** [~~such~~] examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.

(2) ***The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the actual cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the federal mileage rate or the rate paid to members of the Kentucky General Assembly, whichever is greater. The employee shall be paid for each mile from his usual residence to the examination site on a round trip basis. The requesting party shall also reimburse the employee for the actual cost of meals and lodging upon proof of same by written voucher.***

(3) If an employee refuses to submit himself to or in any way obstructs such examination his right to take or prosecute any proceedings under this chapter shall be suspended until ***the*** [~~such~~] refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(4)[~~(3)~~] Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and [~~such~~] other supporting information [~~as~~] the administrative law judge may require.

(5)[~~(4)~~] The board shall supply forms for ***the*** [~~such~~] report.

HB 561, AN ACT relating to collective bargaining for firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 345.010 is amended to read as follows:

When used in this chapter:

(1) "Public employer" means a city ***of the first class*** [~~containing a population of at least 300,000 as determined by the last federal census~~] or any city that petitions the commissioner of the Department of Workplace Standards, under the direction of the secretary of the Labor Cabinet to be included by this chapter;

(2) "Firefighter" means an employee of the public employer engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;

(3) "Labor organization" means any chartered labor organization of any kind in which firefighters participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment or conditions of employment;

(4) "Exclusive representative" means the labor organization which has been designated by the State Labor Relations Board as the representative of the majority of firefighters in appropriate units or has been so recognized by the public employer;

(5) "Board" means the State Labor Relations Board;

(6) "Person" includes one or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(7) "Commissioner" means the commissioner of the Department of Workplace Standards, under the direction and supervision of the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

Section 2. KRS 345.030 is amended to read as follows:

(1) Firefighters of a city ***of the first class*** [~~containing a population of at least three hundred thousand (300,000) as determined by the federal census~~] shall have, and shall be protected in the exercise of, the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint or coercion.

(2) Labor organizations designated by the State [~~Board of~~] Labor Relations ***Board*** as the representative of the majority of firefighters in an appropriate unit or recognized by a public employer as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment.

(3) Labor organizations recognized by a public employer as the exclusive representative or so designated in accordance with the provisions of this chapter shall be responsible for representing the interest of all firefighters in the unit without discrimination.

The Committee on Appropriations and Revenue reported **HB 436**, **HB 478** with Committee Substitute attached thereto, and **HB 509** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 436, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.028 is amended to read as follows:

Subject to the provisions of KRS 132.027, a city or urban-county government may levy a rate on business inventories equal to or less than the prevailing rate of taxation on other tangible personal property in the respective city or urban-county government. ***The tax shall not be levied upon the inventories of licensed motor vehicle dealers, which shall be taxed exclusively under the provisions of KRS 134.800 - 134.830.***

Section 2. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency.[~~; provided, however, that~~] No penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on ***the*** [~~said~~] motor vehicle, except as hereinafter provided.

(5) ***If*** [~~In the event that~~] an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration ***shall be*** [~~are~~] due and payable on or before the last day of the first birth month following ***the*** [~~said~~] assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) ***For purposes of the state ad valorem tax only, all motor vehicles held for sale*** [~~All motor vehicles currently titled and registered in this state held on an assignment~~] by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(11) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. No lien for delinquent ad valorem taxes shall attach to any motor vehicle transferred while the taxes are due on that vehicle.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS data base. For the filing and release of each [~~such~~] lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 3. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. ***They*** [~~(except that the same~~] shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof[~~)~~], and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (1-1/2) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (4-1/2) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock.[~~, except that~~] Nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;

(12) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(13) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(14) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.450 based on the vehicle's fair market value at the time of sale;

(15) Motor vehicles registered pursuant to the provisions of KRS 186.050(6); [~~and~~]

(16) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390***; and***

(17) Motor vehicles held for sale in the inventory of a licensed motor vehicle dealer.

HB 478, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser or solicitor for such person; [~~or~~]

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media or other facility or service located in this state***; or***

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state.

Section 2. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. ***Cost of production shall include amounts for raw materials, labor and overhead.*** Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided

the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(9) Machinery for new and expanded industry;

(10) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(11) Property which has been certified as a pollution control facility as defined in KRS 224.850, and all materials, supplies and repair and replacement parts purchased for use in the operation or maintenance of such facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1991;

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities;

(14) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(15) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(16) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(17) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use will not subject the property to the taxes imposed by this chapter;

(18) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(19) Any property to be incorporated into the construction, rebuilding, modification or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1991; and

(20) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program.

Section 3. KRS 139.483 is amended to read as follows:

The taxes imposed under the provisions of this chapter shall not apply to the sale of, or the storage, use, or other consumption of, ships and vessels, including property ***incorporated by*** [~~used in the~~] repair or construction of, supplies and fuel consumed in the operation of, and supplies consumed by crew members aboard such ships and vessels which are used principally in the transportation of property or in the conveyance of persons for hire. ***This section shall not apply to property used to perform the repair or construction of such ships and vessels or to pleasure craft.***

Section 4. KRS 139.500 is amended to read as follows:

(1) The storage, use or other consumption in this state of property, the gross receipts from the sale of which are required to be included in the measure of the tax levied under KRS 139.200 is not subject to the use tax.

(2) The storage, use, or other consumption in this state of gasoline or special fuels on which the tax under KRS chapter 138 has been paid and which is not subject to refund under KRS 138.341, 138.344, ***138.445,*** 279.200, or 279.530 shall not be subject to the use tax.

Section 5. KRS 139.720 is amended to read as follows:

(1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the cabinet may require.

(2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than ***six (6)*** [~~four (4)~~] years from the making of such records unless the cabinet in writing sooner authorizes their destruction.

Section 6. The provisions of this Act shall become effective on August 1, 1990.

The Committee Substitute to **HB 478** is as follows:

HB 478, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser or solicitor for such person; [~~or~~]

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media or other facility or service located in this state***; or***

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state.

Section 2. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if such sale amounts to twenty-five cents (25) or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities or special districts as defined in KRS 65.005. This exemption applies only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit is not entitled to the exemption even though such purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke and wood. Determinations of eligibility for the exemption shall be made by the revenue cabinet;

(b) In making such determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the public service commission. Where the service is classified as residential, use other than for "residential" purposes by the customer will not negate the exemption;

(c) The exemption does not apply where charges for sewer service, water and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption applies also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years; and

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill.

(10) Gross receipts from sales to an out-of-state agency, organization or institution exempt from sales and use tax in its state of residence when that agency, organization or institution gives proof of its tax exempt status to the seller and the seller maintains a file of such proof.

(11) Gross receipts derived from the sale of, and the storage, use or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. Such property shall be regarded as having been purchased for resale.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if such property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tolls attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they must come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle. A single manufacturing cycle is considered to be the period elapsing from the time the raw materials enters into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It will be noted that in none of the three (3) categories is any exemption provided for repair parts. KRS 139.170 specifically holds replacement machinery to be taxable. Since replacement machinery is subject to tax, it necessarily follows that repair or replacement parts are subject to tax. Repair parts are not considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing.

Section 3. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. ***Cost of production shall include amounts for raw materials, labor and overhead.*** Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(9) Machinery for new and expanded industry;

(10) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(11) Property which has been certified as a pollution control facility as defined in KRS 224.850, and all materials, supplies and repair and replacement parts purchased for use in the operation or maintenance of such facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1991;

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities;

(14) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(15) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(16) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(17) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use will not subject the property to the taxes imposed by this chapter;

(18) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(19) Any property to be incorporated into the construction, rebuilding, modification or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1991; and

(20) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program.

Section 4. KRS 139.483 is amended to read as follows:

The taxes imposed under the provisions of this chapter shall not apply to the sale of, or the storage, use, or other consumption of, ships and vessels, including property ***incorporated by*** [~~used in the~~] repair or construction of, supplies and fuel consumed in the operation of, and supplies consumed by crew members aboard such ships and vessels which are used principally in the transportation of property or in the conveyance of persons for hire. ***This section shall not apply to property used to perform the repair or construction of such ships and vessels or to pleasure craft.***

Section 5. KRS 139.500 is amended to read as follows:

(1) The storage, use or other consumption in this state of property, the gross receipts from the sale of which are required to be included in the measure of the tax levied under KRS 139.200 is not subject to the use tax.

(2) The storage, use, or other consumption in this state of gasoline or special fuels on which the tax under KRS chapter 138 has been paid and which is not subject to refund under KRS 138.341, 138.344, ***138.445,*** 279.200, or 279.530 shall not be subject to the use tax.

Section 6. KRS 139.620 is amended to read as follows:

(1) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in subsection (2), and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the cabinet.

(2) For the ***purposes of this section*** [~~purpose of subsections (1) and (4)~~], a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this chapter.

[~~(4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.~~]

Section 7. The provisions of this Act shall become effective on August 1, 1990.

HB 509, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Any motor vehicle owner who receives a usage tax assessment that in his judgment is higher than actual value of the vehicle, due to actual condition of the vehicle, high mileage or other conditions which may serve to decrease the value of the vehicle, may appeal to the property valuation administrator located in the county of his residence for the purpose of receiving a second assessment.

(2) Upon receiving the appeal, the local property valuation administrator shall inspect the vehicle in question, and with respect to the Revenue Cabinet valuation, the valuation according to the National Automobile Dealers Association manual and the actual condition of the vehicle, make a valuation accordingly.

(3) The property valuation administrator shall forward the valuation ordered by the appellee to the county court clerk and the clerk shall make the necessary adjustments, if any, to the usage tax due to the appellee.

The Committee Amendment No. 1 to **HB 509** is as follows:

Amend printed copy of **HB 509** on page 1, line 3, by inserting after the subsection number, "*(1)*" the following: "***Notwithstanding the provisions of KRS 138.460(1),***" and by lower-casing the word "***Any***".

The Committee on Appropriations and Revenue reported **HB 445** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 445, AN ACT relating to the collection of taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.370 is amended to read as follows:

(1) Any party aggrieved by any final order, decision, or determination of the Kentucky Board of Tax Appeals, except on appeals from a county board of assessment appeals, may appeal on any question of law to the Franklin Circuit Court or to the Circuit Court of the county in which the party aggrieved resides or conducts his place of business. Any final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the Circuit Court of the county in which the appeal originated. All parties to the proceedings before the Board of Tax Appeals shall be made parties to the proceedings on appeal.

(2) A notice of appeal shall be filed with the Board of Tax Appeals within thirty (30) days after any final order, decision or determination by the board. Within thirty (30) days thereafter, a statement of appeal shall be filed with the appropriate Circuit Court together with the certified record of the Kentucky Board of Tax Appeals. The statement of appeal shall substantially conform to that required to be filed in the Kentucky Supreme Court. The appeal shall be docketed by the Circuit Court clerk upon the filing of the statement of appeal and the Kentucky Board of Tax Appeals' certified record.

(3) ***If the appeal is from an order sustaining a tax assessment, collection of the tax may be stayed by the filing of a supersedeas bond in the manner directed by the Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580(1).***

(4) No new or additional evidence may be introduced in the Circuit Court except as to the fraud or misconduct of some person engaged in the administration of the revenue laws and affecting the order, ruling or award, but the court shall otherwise hear the cause upon the record as certified by the board and shall dispose of the cause in summary manner, its review being limited to determining whether or not:

(a) The board acted without or in excess of its powers;

(b) The order, decision, or award was procured by fraud;

(c) The order, decision, or award is not in conformity to the law; and

(d) If findings of fact are in issue, whether ***the*** [~~such~~] findings of fact support the order, decision or award.

(5)[~~(4)~~] The court shall enter judgment affirming, modifying, or remanding the order in its discretion. The court may, before judgment, upon the showing of sufficient cause, remand the entire matter to the board for further consideration.

(6)[~~(5)~~] Any party may appeal to the Court of Appeals as provided by the Rules of Civil Procedure.

Calendar

HB 584, HB 471, HB 510, HB 523, HB 557, HB 32, HB 36, HB 173, HB 517, HB 519, HB 525, HB 544, HCR 110, HCR 109, SB 175, SB 135, SB 176 and **SB 185** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 503 and **HB 590** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 67, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of Committee Substitute to **HB 67**. Agreed.

Representative Reinhardt moved that **HB 67**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 21, 1990 roll call on **HB 67** - Appendix.)

HB 67, by way of Committee Substitute, was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HB 67**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 288, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Floor Amendment No. 1 to **HB 288**. Agreed.

Representative Mason moved that **HB 288**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 21, 1990 roll call on **HB 288** - Appendix.)

HB 288, as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 288**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 268, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Substitute to **HB 268**. Agreed.

Representative Morris moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 268**. Agreed.

Representative Morris moved that **HB 268**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 21, 1990 roll call on **HB 268** - Appendix.)

HB 268, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 268**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 347, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Substitute to **HB 347**. Agreed.

Representative Callahan moved that **HB 347**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 72, Nays 16. (See February 21, 1990 roll call on **HB 347** - Appendix.)

HB 347, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 347**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 117** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:22 p.m.)

Orders of the Day (Continued)

HB 142, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of Committee Substitute to **HB 142**. Agreed.

Representative Siler moved that **HB 142**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 21, 1990 roll call on **HB 142** - Appendix.)

HB 142, by way of Committee Substitute, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 142**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 356 with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 356** be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See February 21, 1990 roll call on **HB 356** - Appendix.)

HB 356 was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 356** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 362, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **HB 362**. Agreed.

Representative Farrow moved that **HB 362**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 21, 1990 roll call on **HB 362** - Appendix.)

HB 362, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 362**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 385 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 385** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 21, 1990 roll call on **HB 385** - Appendix.)

HB 385 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 385** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 382 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 382** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 21, 1990 roll call on **HB 382** - Appendix.)

HB 382 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 382** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 105 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved that **HJR 105** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 21, 1990 roll call on **HJR 105** - Appendix.)

HJR 105 was passed and the title agreed to.

Representative Castleman moved that the vote by which **HJR 105** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 297, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Amendment No. 1 to **HB 297**. Agreed.

Representative Richards moved that **HB 297**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 21, 1990 roll call on **HB 297** - Appendix.)

HB 297, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 297**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 40 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 40** be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 21, 1990 roll call on **HB 40** - Appendix.)

HB 40 was passed and the title agreed to.

Representative McBee moved that the vote by which **HB 40** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 345 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved that **HB 345** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 21, 1990 roll call on **HB 345** - Appendix.)

HB 345 was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 345** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 470 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 470** be passed.

On the roll call the vote was: Yeas 96, Nays 2. (See February 21, 1990 roll call on **HB 470** - Appendix.)

HB 470 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 470** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 532 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HB 532** be passed.

On the roll call the vote was: Yeas 93, Nays 3. (See February 21, 1990 roll call on **HB 532** - Appendix.)

HB 532 was passed and the title agreed to.

Representative Ark moved that the vote by which **HB 532** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 398, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Floor Amendment No. 1 to **HB 398**. Agreed.

Representative Hancock moved that **HB 398**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 21, 1990 roll call on **HB 398** - Appendix.)

HB 398, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 398**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 434** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 21, 1990 roll call on **HB 434** - Appendix.)

HB 434 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 434** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Callahan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved the adoption of the following **HR 100**:

HR 100, A RESOLUTION honoring the Newport Independent Schools' drug prevention program.

WHEREAS, with only $20,000, Newport Independent Schools have provided a greatly needed avenue uniting voluntary efforts of the school board, local businesses, churches, civic groups, governments, teachers, counselors, students, and parents in the battle against drug use; and

WHEREAS, for four exciting years Robert Hall, Newport Independent Schools Drug Prevention Coordinator, has creatively combined these efforts into a drug prevention program highly praised by Governor Wallace Wilkinson and the Kentucky School Board Conference to which Robert Hall and the Newport Independent School Board will speak March 2nd through the 4th in Louisville; and

WHEREAS, each of Newport Independent Schools' drug prevention programs teach students how to gain acceptance among their peers without resorting to drugs and alcohol; and

WHEREAS, the first of these proven programs is the 4th and 5th graders' "Just Say No Clubs" and consists of drug free activities; and

WHEREAS, the 5th graders' "D.A.R.E." project, Drug Abuse Resistance Education, consists of fifteen educational weeks that close with a graduation and presentation of a D.A.R.E. T-Shirt to each participant in care of sponsors; and

WHEREAS, the heartening junior high programs include the S.O.C., Student Outreach Club, which is an in-school drug prevention club sponsoring many activities for those junior high students most at risk; and

WHEREAS, the junior high program embodies the "S.O.C. Summer," which is led by many, including volunteer coaches, counselors, juvenile social workers, staff members, youth ministers, and the Newport Police Department, and entails a softball program and pizza parties that stress character development throughout the risky summer months; and

WHEREAS, fourth through eighth graders participate in the "Newport Schools Annual Honorary Official Drug Prevention Essay Contest," in which each student chooses an official and writes a drug prevention essay saying why drug prevention is important to that official; and from which sixty winners are selected and designated honorary officials for a day and spend several momentous hours with that official, thus stressing the essay contest goal which is to teach students that drug prevention is important to the whole community; and

WHEREAS, the elementary and junior high program includes the "Annual Poster Contest," in which the poster of the winner from each school is enlarged and displayed, with expenses of the contest being paid by sponsors; and

WHEREAS, two other programs are the vital "Active Parenting Group" and the year-end "March Against Drugs Parade," which consists of 1,000 people, including volunteers, sponsors, and students, and to which the City of Newport and the Board of Education provide much time and effort for this worthwhile community expression against drug use;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body hails Drug Prevention Coordinator Robert Hall, Superintendent Bernard J. Sandfoss, Newport Independent School Board, local Newport businesses, church and civic groups, the City of Newport, teachers, counselors, students, parents, and the many other volunteers in their mission to stamp out drug and alcohol use among students in the Newport Independent School System.

Section 2. That the House of Representatives embraces Newport Independent Schools' Drug Prevention Program as a cost effective model to unite a community's volunteers in the fight to prevent drug use among Kentucky's students.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Robert Hall, Drug Prevention Coordinator, and Bernard J. Sandfoss, Superintendent, both at Newport Independent Schools, 301 East 8th Street, Newport, Kentucky, 41071.

HR 100 was adopted by voice vote.

Representative Farrow moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farrow moved that he be recorded as voting "yea" on **HB 398**. Agreed.

Representative Scorsone moved that the rules be suspended to introduce and act upon a Resolution.

HR 136, by Representative Scorsone: A RESOLUTION honoring Marilyn Moosnick.

Representative Scorsone moved the adoption of the following **HR 136**:

HR 136, A RESOLUTION honoring Marilyn Moosnick.

WHEREAS, Marilyn Moosnick has fostered the creative spirit in Kentuckians for over 20 years; and

WHEREAS, Marilyn Moosnick's has nurtured Kentucky's artists and graced Lexington by creating the Lexington Arts and Cultural Council; and

WHEREAS, Marilyn Moosnick has promoted the arts in Kentucky from Louisville, where she is on the board of the Kentucky Center for the Arts, to Eastern Kentucky, where she has worked for Kentucky's rural arts programs; and

WHEREAS, while serving four governors on the Kentucky Arts Council, Marilyn Moosnick, smoothed discord in the state to harmonious agreement; and

WHEREAS, Marilyn Moosnick is praised statewide for advancing the arts and making Kentucky a more culturally satisfying place to live and work;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body honors and commends Marilyn Moosnick for her leadership in the development of the arts in the Commonwealth of Kentucky.

Section 2. That Marilyn Moosnick is an inspiration to all Kentuckians.

Section 3. That a copy of this resolution be transmitted to Marilyn Moosnick, 755 Brook Hill Drive, Lexington, Kentucky 40502.

HR 136 was adopted by voice vote.

Representative Noland moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Noland moved the adoption of the following Legislative Citation No. 43. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Beth Muncie, Miss

Estill County Fair Queen. We honor you for winning the Miss Congeniality Award while competing in the Miss Kentucky County Fair Pageant. This honor was bestowed on you by your peers for your friendly and caring personality. These qualities provide a fine example for today's youth. Your involvement in community activities further demonstrates your concern and compassion for others.

This prestigious body joins Representative Clarence Noland in saluting you for your many accomplishments and wishes you continued success.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that **HB 608** be reassigned to the Committee on Energy. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 660, by Representative LeMaster: AN ACT relating to fees.

HB 661, by Representative LeMaster: AN ACT relating to the competency of certain testimony.

HB 662, by Representatives McElroy and A. Jones: AN ACT relating to retirement.

HB 663, by Representatives T. Jones and Burch: AN ACT relating to the education of foster children.

HB 664, by Representatives White, Bentley and Scorsone: AN ACT relating to personal leave days for school employees.

HB 665, by Representative B. Smith: AN ACT relating to retirement and declaring an emergency.

HB 666, by Representative Little: AN ACT relating to oil and gas.

HB 667, by Representatives Arnold, Allen, Turner, Gedling, Cline, Napier, Ark, Mack, Lyne, Bentley, Nelson, A. Jones, Castleman, Curd, White, Little, Gregory, P. Clark, Walker, Johnson, Mason, Ridley, Todd, Jackson, Siler, Bronger, McElroy, Butler, Adkins, R. Smith, B. Smith, Cyrus and Pritchett: AN ACT relating to corrections.

HB 668, by Representative Riner: AN ACT relating to public health.

HB 669, by Representatives White and Bentley: AN ACT relating to sick leave days.

HB 670, by Representative Ward: AN ACT relating to representative payment.

HB 671, by Representative Blevins: AN ACT relating to precinct election officers.

HB 672, by Representative K. Harper: AN ACT relating to prescription drugs.

HJR 137, by Representative Blevins: A JOINT RESOLUTION creating a task force for the study of state government organizations for the protection of the public's health.

Report of Committees

The Committee on Rules reported **HB 36, HB 544, HB 584, HCR 109** and **HCR 110** have been posted for passage in Orders of the Day, February 22, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, February 22, 1990: **HB 590**.

The Committee on Rules reported the following Bills have been recommitted:

Business Organizations and Professions: **HB 420, HB 115**.

Appropriations and Revenue: **HB 378, HB 557**.

The Committee on Rules reported **HB 207**, **HB 399**, **HB 32**, **HB 173**, **HB 471**, **HB 510**, **HB 517**, **HB 519**, **HB 523** and **HB 525** have been posted for passage in Orders of the Day, February 23, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, February 23, 1990: **SB 46**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Banking and Insurance: **HB 146**, **HB 545**, **HB 626**.

Business Organizations and Professions: **HCR 76**.

Cities: **HB 613**, **HB 615**, **HB 616**, **HB 625**.

Judiciary: **HB 638**, **HB 639**.

Health and Welfare: **HB 541**.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 115**, by Representative B. Smith:

Amend printed copy of HCS to **HB 115** on page 9, by deleting lines 20 through 26; and by deleting all of pages 10 through 13; and

on page 14, by deleting lines 1 through 9; and

on page 14, line 10, by substituting "Section 5." for "Section 6."; and

on page 17, line 2, by substituting "Section 6." for "Section 7."; and

on page 18, line 11, by substituting "Section 7." for "Section 8."; and

on page 22, line 20, by substituting "Section 8." for "Section 9.".

Floor Amendment No. 2 to the Committee Substitute to **HB 115**, by Representative B. Smith:

Amend printed copy of HCS to **HB 115** on page 14, by deleting lines 10 through 26; and by deleting pages 15 and 16; and

on page 17, by deleting line 1; and

on page 17, line 2, by substituting "Section 6." for "Section 7."; and

on page 18, line 11, by substituting "Section 7." for "Section 8."; and

on page 22, line 20, by substituting "Section 8." for "Section 9.".

Floor Amendment No. 3 to the Committee Substitute to **HB 115**, by Representative B. Smith:

Amend printed copy of HCS to **HB 115** on page 18, by deleting lines 11 through 26; and by deleting pages 19 through 21; and

on page 22, by deleting lines 1 through 19; and

on page 22, line 20, by substituting "Section 8." for "Section 9.".

Floor Amendment No. 2 to **HB 38**, by Representatives Deskins and Overstreet:

Amend printed copy of **HB 38** on page 1, beginning on line 13 following "(3)" through line 19 preceding "mental illness" to remove all brackets and strike-throughs contained therein; and

On page 3, below line 3, to add the following:

"Section 2. The following KRS subsection is repealed:
527.020(5) - Penalty."

Floor Amendment No. 3 to **HB 38**, by Representative Deskins and Overstreet:

Amend printed copy of **HB 38** on page 1, beginning on line 13 following "(3)" through line 19 preceding "mental illness" to remove all brackets and strike-throughs contained therein.

Floor Amendment No. 4 to **HB 38**, by Representative Deskins and Overstreet:

Amend printed copy of **HB 38** on page 3, below line 3, to add the following:

"Section 2. The following KRS subsection is repealed:

527.020(5) - Carrying a concealed deadly weapon."

Floor Amendment No. 1 to the Committee Substitute to **HB 32**, by Representative Ridley:

Amend printed copy of HCS to **HB 32** on page 2, line 4, after the word "***rim***" by adding the following: "***and shall not include tires placed on a motor vehicle prior to its original retail sale***".

Floor Amendment No. 1 to the Committee Substitute to **HB 34**, by Representative Bronger:

Amend printed of Committee Substitute to **HB 34** on page 1, line 3, after the word "***shall***" by inserting: "***knowingly***".

Floor Amendment No. 1 to **SB 122**, by Representative Stumbo:

Amend printed copy of **SB 122** on page 2, after line 26, by adding the following:

"Section 3. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city ***or a county***, who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;

(4) "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(13) "Commission" means the public service commission of Kentucky;

(14) "Commissioner" means one (1) of the members of the commission."

Floor Amendment No. 2 to the Committee Substitute to **SB 47**, by Representative Curtsinger:

Amend printed copy of HCS to **SB 47** on page 97, line 15, after "Section 51." by inserting the following: "KRS 117.305 is amended to read as follows:

The canvass and returns provided for in KRS 117.275 shall constitute the official returns of the precinct, unless within ninety-six (96) hours after the close of the polls ***in a primary or regular election, or within twenty-four (24) hours after the close of the polls in a special election held for the purpose of filling a vacancy***, the county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts, or a candidate makes a written request to the county board of elections to check and recanvass the voting machines and absentee ballots of any precinct or any number of precincts involving his race. After this time period has elapsed and notice is taken, the election board shall immediately assemble and recheck and recanvass each machine and make a proper return thereof to the county clerk, in which event the canvass and return shall become the official returns for the election. In making the recanvass the board shall make a record of the number of the seal upon the voting machine and without unlocking the machine against voting, recanvass the vote cast thereon. If, upon a recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that there still remains a discrepancy unaccounted for this discrepancy shall be noted. The registering counter of each candidate who requested a recanvass and the counter of the candidate's opponent shall be reset at zero before it is tested, after which it shall be operated at least one hundred (100) times. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly, except that there shall be no change in the vote of any candidate from that originally certified unless such candidate was actually notified. The county board of elections shall, immediately upon receipt of a request for a recanvass, notify each candidate for the office of the time and place of the recanvass. At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present either in person or by a representative or both. The county board of elections shall authorize representatives of the news media to observe the recanvass of the votes cast on the voting machine in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120."; and

by renumbering the remaining sections accordingly.

The Clerk announced that the Budget Review Subcommittee on General Government will meet February 23, 1990, upon adjournment.

The Clerk announced that the meeting of the Budget Review Subcommittee on Natural Resources on February 22, 1990 has been cancelled.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 22, 1990.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates. Nays 2—LeMaster, Lile.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 22, 1990

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 21, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 41**, **SB 134**, **SB 149**, **SB 186**, **SB 202**, **SB 229**, **SB 230**, **SB 243**, **SB 253**, **SB 270** and **HB 4**.

Introduction of Bills and Resolutions

HB 673, by Representative Siler: AN ACT relating to peace officer selection and training.

HB 674, by Representatives Strong, Walker, Curtsinger, Lile, Todd, Casebier, Zimmerman, Altman, Napier and Mullinix: AN ACT relating to interstate commerce in solid waste and declaring an emergency.

HB 675, by Representatives Gedling, Crupper and Napier: AN ACT relating to tobacco.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **SB 148**, **SB 174**, **SB 228**.

Business Organizations and Professions: **HB 668**.

Counties and Special Districts: **HB 660**, **HB 667**, **SB 166**.

Education: **HB 664**, **HB 669**.

Elections and Constitutional Amendments: **HB 671**.

Energy: **HB 666**.

Health and Welfare: **HB 663**, **HB 670**, **HB 672**, **HJR 137**.

Judiciary: **HB 661**, **SB 171**.

Labor and Industry: **SB 57**.

Natural Resources and Environmental Protection: **SB 205**, **SB 255**.

State Government: **HB 665**.

Transportation: **HB 659**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill and Resolutions have been posted for Committee consideration:

Economic Development and Tourism: **HCR 125**, **HCR 127**, **HCR 128**.

Business Organizations and Professions: **HB 115**.

Report of Committees

The Committee on Business Organizations and Professions reported **HB 527** with Committee Substitute attached thereto, **HB 528** and **SB 31** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 527, AN ACT relating to the transfer of alcoholic beverage licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

No person holding any license issued under KRS 243.020 to 243.670 shall be permitted to transfer or sell the license or licenses to any person during the pendency of any proceedings against the license or license holder for violation of any statute or regulation which may result in suspension or revocation of the license or licenses.

The Committee Substitute to **HB** 527 is as follows:

HB 527, AN ACT relating to the transfer of alcoholic beverage licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) "Transfer" means, for purposes of this section, the transfer of ownership interest in any license issued under KRS 243.020 to 243.670 or the transfer in bulk and not in the ordinary course of the transferor's business of a major part of the fixtures, materials, supplies, merchandise, or other inventory of an enterprise licensed under KRS 243.020 to 243.670.

(2) No person holding any license issued under KRS 243.020 to 243.670 shall be permitted to transfer the license or licenses, or otherwise effect a transfer requiring the issuance of any license under KRS 243.020 to 243.670 to any person during the pendency of any proceedings against the license or license holder for a violation of any statute or administrative regulation which may result in suspension or revocation of the license or licenses or when the licensee owes a debt on the inventory or merchandise sold to such licensee by any licensee holder who is responsible for the collection and payment of the tax imposed by KRS 243.884.

HB 528, AN ACT relating to fines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500.[~~; Provided,~~] However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, ***four hundred dollars ($400)*** [~~one hundred dollars ($100)~~] per day; ***any license which by its terms authorize the sale of liquor by the drink, fifty dollars ($50)*** [~~retail drink liquor licensees, twenty-five dollars ($25)~~] per day; retail package liquor licensees, ***fifty dollars ($50)*** [~~twenty-five dollars ($25)~~] per day; retail beer licensees, ***twenty-five dollars ($25)*** [~~ten dollars ($10)~~] per day; all remaining licensees, ten dollars ($10) per day.

(2) Payments in lieu of suspension collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

SB 31, AN ACT relating to the grape industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) A farm winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses:

(a) Manufacture wines and bottle wines at a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, in an amount not to exceed twenty-five thousand (25,000) gallons in one (1) year;

(b) Serve on the premises complimentary samples of wine produced by it in amounts not to exceed four (4) ounces per patron per day, if the farm winery is located in wet territory;

(c) Sell wine produced on the premises of the farm winery by the package at retail to consumers, if the farm winery is located in wet territory;

(d) Sell wine produced on the premises of the farm winery to wholesale liquor license holders; and

(e) Serve complimentary samples or sell wine produced on the premises of the farm winery at another farm winery or small winery sales site, if the other farm winery or small winery sale site is located in wet territory.

(2) If a licensed farm winery is located in a dry territory, it may establish one (1) sales outlet in wet territory.

(3) All of the fresh fruits, fruit juices, or honey used to manufacture wine at a farm winery shall be grown or produced in the Commonwealth of Kentucky.

(4) If a licensed farm winery is located in a dry territory, KRS 242.230 to 242.430 shall apply.

(5) This section shall not exempt the holder of a farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the rules of the board as established by administrative regulations, except as expressly stated in this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The Grape Industry Advisory Committee is hereby created within the Department of Agriculture. The purpose of the committee shall be to promote and facilitate the development of a grape industry in the Commonwealth of Kentucky.

(2) The committee shall be composed of the Commissioner of Agriculture, or his designee, and six (6) members appointed by the Governor. Of the six (6) gubernatorial appointments, the Governor is encouraged to appoint one (1) from list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the Tourism Cabinet, and two (2) from a list of three (3) candidates submitted by the Kentucky Vineyard Society.

(3) The appointed members shall serve for terms of four (4) years and until their successors are appointed and qualify. The committee shall select a chairman and shall meet at the times and places that he designates. Four (4) members present at any meeting shall constitute a quorum. Upon the written request of any three (3) members, the chairman shall call a meeting of the committee at the time and place requested.

(4) Members shall receive no compensation but shall be reimbursed, payable from the Division of Markets, for any actual expense incurred in performing their duties.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$1,500.00
(2)	Rectifier's license, per annum	$1,500.00
(3)	Blender's license, per annum	$1,500.00
(4)	Vintner's license, per annum	$ 500.00
(5)	Small winery license, per annum	***$ 25.00*** [~~$ 250.00~~]
(a)	***Small winery off-premises retail license, per annum***	***$ 25.00***
(6)	Wholesaler's license, per annum	$1,500.00
(7)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$ 600.00
(b)	In counties containing cities of the second class	$ 500.00

(c) In counties containing cities of the third class	$ 400.00
(d) In counties containing cities of the fourth class	$ 300.00
(e) In all other counties	$ 200.00
(8) Retail drink license, per annum:	
(a) In counties containing cities of the first class	$ 800.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(d) In counties containing cities of the fourth class	$ 300.00
(9) Transporter's license, per annum	$ 25.00
(10) Dining car license, per annum	$ 50.00
(11) Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12) Special industrial alcohol license, per annum	$ 25.00
(13) Special nonindustrial alcohol license, per annum	$ 25.00
(14) Special agent's or solicitor's license, per annum	$ 20.00
(15) Special storage or warehouse license, per annum	$ 100.00

(16) Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).

(17) Special private club license, per annum	$ 150.00
(18) Special Sunday retail drink license	$ 300.00
(19) Nonresident, special agent or solicitor's license, per annum	$ 20.00
(20) Transport permit, nonresident license, per annum	$ 25.00
(21) Through transporter's license, per annum	$ 25.00
(22) Freight forwarder's license, per annum	$ 25.00
(23) Supplemental bar license:	
(a) In counties containing cities of the first class	$ 800.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(24) Restaurant wine license, per annum:	
(a) New applicants	$ 300.00
(b) Renewals	$ 200.00
(25) ***Farm winery license, per annum***	***$ 25.00***
(a) Farm winery retail outlet license	***$ 5.00***
(26) Special temporary wine license	***$ 25.00***

(27) Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 4. KRS 243.031 is amended to read as follows:

A small winery license, ***a small winery off-premises retail license, a farm winery license or a farm winery***

retail outlet licensee, shall be issued upon a verified application to the board. The application shall be upon forms provided by the board and shall contain such information as the board requires, which shall include affirmative evidence of the applicant's ability to comply with ***the*** [~~such~~] rules and regulations as may be promulgated by the board.

Section 5. KRS 243.155 is amended to read as follows:

(1) A small winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses***, except that each off-premises retail site shall be separately licensed***:

(a) Manufacture wines and bottle wines produced by that small winery in an amount not to exceed fifty thousand (50,000) gallons in one (1) year;

(b) Serve on the premises ***or at off-premise retail sites*** complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron ***per day, if*** [~~provided~~] the small winery ***or off-premise retail site*** is located in wet territory;

(c) Sell ***by the package on premise or at off-premise retail sites,*** wine produced on the premises of the small winery at retail to ***consumers if all sales sites are*** [~~non-license holders provided that the small winery is~~] located in wet territory; ***and***

(d) Sell wine produced on the premises of the small winery to wholesale license holders and to retail package or retail drink license holders, ***if*** [~~provided that~~] the wine has been offered for sale to wholesale license holders and [~~that~~] the wine is sold at the wholesale price to ***the*** [~~such~~] retail package or retail drink license holders.

(2) In accordance with regulations developed by the board the holder of a small winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices or honey produced in Kentucky are not obtainable, may apply for a permit to import such products. The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices or honey are not available from any other source within the Commonwealth of Kentucky.

(3) If a licensed small winery is located in a dry territory KRS 242.230 to 242.430 shall apply.

(4) This section ***shall*** [~~does~~] not exempt the holder of a small winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the rules of the board as established by administrative regulations, nor from regulation by the board ***at all premises licensed by the small winery***, except as expressly stated in this section.

Section 6. KRS 243.260 is amended to read as follows:

A distilled spirits and wine special temporary license ***or a special temporary wine license*** may be issued to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity therefor exists. This license shall authorize the licensee to exercise the privileges of a distilled spirits and wine retail drink licensee at designated premises for a specified and limited time, not ***to exceed*** [~~in any event longer than~~] thirty (30) days***; except that the special temporary wine license shall apply to wine sales only***. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee shall apply also to a special temporary licensee.

The Committee on Education reported **HB 205, HB 452, HB 572, SB 123** and **SB 170** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 205, AN ACT relating to teachers' retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Any employee hired on or before January 1, 1990, who is a participating member of the Kentucky Teachers' Retirement System and who has service credit in the retirement system equal to twenty-seven (27) years or is fifty-five (55) years of age with ten (10) years of service credit, and who retires under the provisions of this section shall receive additional service credit equal to ten percent (10%) of his actual service credit prior to the addition of service credit for accrued sick leave as provided in KRS 161.623.

(2) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance. The additional service credit shall not be used in determining the reduction in benefits under KRS 161.600(1)(b).

(3) The employee shall submit a written application for retirement as prescribed in KRS 161.600 no earlier than January 1, 1991, and no later than March 31, 1991, except that the provisions of this section shall not apply in the case of disability or in the event the employee dies prior to filing a notification of retirement within the prescribed time period. The employee shall also notify the employer of the intent to retire under the provisions of this section. The effective date of retirement shall be the first day of the month following termination of employment, except that the retirement date shall not be earlier than June 1, 1991, and not later than August 31, 1991. The employee may void the decision to retire under the provisions of this section by submitting written notification to the retirement system and the local board of education or the appropriate state cabinet or department no later than March 31, 1991.

(4) The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of this section for each employee, and the cost shall be paid by the Commonwealth of Kentucky. The money paid by the Commonwealth of Kentucky shall be added to the retirement allowance account of the Kentucky Teachers' Retirement System and shall not be considered accumulated contributions of the member. The Commonwealth of Kentucky shall submit payment for the cost of the service upon the last day of the month in which the member terminates.

(5) Any employee retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed as a contributing participant in the Kentucky Teachers' Retirement System.

(6) The Kentucky Teachers' Retirement System shall notify the employer and all employees eligible to retire under the provisions of this section no later than November 1, 1990.

(7) No discrimination is intended by this Act against any present or future employees. It is the intent of this legislation to encourage those employees nearing retirement to elect retirement as a voluntary service to the Commonwealth.

Section 2. The Finance and Administration Cabinet shall be granted authority to accrue savings and transfer sufficient funds between appropriation units of agencies and departments under the provisions of this Act to facilitate payments into the Kentucky Teachers' Retirement System for federally funded employees.

HB 452, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or sheriff and his employees or county clerk and his employees or political subdivision or instrumentality, including school boards, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not, except in the case of volunteer fire fighters serving a fire district created pursuant to KRS 75.010, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employee to office or employment in such county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. In the case of fire fighters employed by a district created pursuant to KRS 75.010 who are paid less than five thousand dollars ($5,000) per year for fire fighting services, creditable compensation shall mean an assumed salary of at least five thousand dollars ($5,000) per year, or a higher figure set annually by the district board of trustees. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) months' period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: nineteen hundred fifty (1950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the County Employees Retirement System;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable; or

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers, ***teacher aides, cafeteria employees, secretaries, and custodial personnel*** for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty, and except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973;

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(25) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust or trustee; and

(26) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

Section 2. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system, provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the Teachers' Retirement System and provided further, that KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. Such payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(3) Any employee participating in one (1) of the state administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees

Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (7) to (11), (13) and (14) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board, and the delayed contribution payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months current service credit in one (1) of the state administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) Any employee participating in one (1) of the state administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky retirement systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(8) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958 and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705 or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1988, any employee participating in one (1) of the state administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). ***Teacher aides, secretaries, custodial personnel and cafeteria employees of a school district may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on an annual or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment shall be by lump sum, except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.***

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(13) Any employee participating in one (1) of the state administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(14) Any employee participating in one (1) of the state administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky retirement systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705 or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky retirement systems, the employee may complete the original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

Section 3. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless ***the*** [~~such~~] person did not elect to become a member as provided by subsection (2) of KRS 78.540. After August 1, 1982, except in the case of volunteer fire fighters whose creditable compensation is based upon an assumed salary, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4). Service credit ***shall*** [~~will~~] be allowed for each month [~~such~~] contributions are deducted or picked up during a fiscal or calendar year, ***if*** [~~provided~~] the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month, except in the case of school bus drivers***, teacher aides, secretaries, custodial personnel and cafeteria employees*** for school boards in which event the school term average shall be eighty (80) hours of work per month, or except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees. If the average number of hours of work is less than one hundred (100) hours per month, or in the case of school bus drivers***, teacher aides, secretaries, custodial personnel and cafeteria employees of school districts*** eighty (80) hours per month, or in the case of volunteer fire fighters less than the work requirement set by the district board of trustees, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work, or in the case of school bus drivers***, teacher aides, secretaries, custodial personnel and cafeteria employees of school districts*** eighty (80) hours of work or in the case of volunteer fire fighters those months in which he satisfies the work requirements set by the district board of trustees.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary or part-time. No service credit ***shall*** [~~will~~] be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit ***shall*** [~~will~~] be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state department of personnel for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions or ***the*** [~~such~~] contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employee contributions made to the retirement system.

HB 572, AN ACT relating to the transportation of students of the Kentucky School for the Deaf or the Kentucky School for the Blind.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.280 is amended to read as follows:

(1) If the number of children of school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program for that exceptionality in that district, or if a school district does not provide a special education program for that exceptionality, the board shall provide a program by

contract with another county or independent district or private organization that maintains a special education program approved by the State Board for Elementary and Secondary Education for that exceptionality. When a district or private organization undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of residence of these pupils shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two (2) districts or district and private organization.

(2) The school board of the school district in which any child resides shall pay for his transportation to and from the program in the other school district or to the private organization. However, if the school board of the other district or the private organization providing the program also provides transportation, the cost of transportation shall be included in the total cost.

(3) If a child of school age is admitted for resident instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.170, the district in which the child resides shall provide transportation to and from the school on a regularly scheduled basis, at ***weekly*** intervals [~~of no less than twice each month~~] while the child is enrolled, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the Superintendent of Public Instruction.

(4) If a child of school age is admitted as a day school pupil for instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.150, the district in which the child resides may provide transportation to and from the school on a daily basis, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the Superintendent of Public Instruction. School districts providing this transportation shall be reimbursed from the transportation fund of the foundation program at the same rate per trip as that which is calculated under subsection (3) of this section.

SB 123, AN ACT relating to regional universities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.365 is amended to read as follows:

Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky [~~State~~] University, Western Kentucky [~~State~~] University, Murray State University, ***Northern Kentucky University,*** and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

Section 2. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, members of the board of regents respectively of Eastern Kentucky [~~State~~] University, Western Kentucky [~~State~~] University, Morehead State University, ***Northern Kentucky University,*** and Murray State University may not be removed except for cause.

Section 3. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the State Board for Elementary and Secondary Education;

(3) "Department" means the State Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on Higher Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, ***Northern Kentucky University,*** Western Kentucky University, and the University of Louisville; but does not include any present or future state supported junior colleges, unless by statute the same are given representation on the council;

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority; or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

SB 170, AN ACT relating to termination of contract by school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.780 is amended to read as follows:

(1) No teacher or superintendent shall be permitted to terminate his contract within thirty (30) days prior to the beginning of his school term without the consent of the board. ***A*** [~~; any such~~] teacher or superintendent shall be permitted to terminate his contract at any other time when schools are not in session by giving two (2) weeks' written notice to the employing board of education. Upon complaint by the employing board to the state Superintendent of Public Instruction and after investigation by him, the certificate of a teacher or superintendent terminating his contract in any [~~other~~] manner ***other*** than provided in this ***Act*** [~~section~~] may be suspended for not more than one (1) year.

(2) If a teacher voluntarily resigns his contract during the school term, the resignation shall be in writing and shall become binding on the date the resignation is accepted by the superintendent. No further action by the employing board is necessary. The resignation is effective on the date specified in the letter of resignation. A resignation, once accepted, may be withdrawn only with the approval of the employing board of education. Nothing in this subsection shall release the teacher from liability to the local board of education for breach of contract.

Section 2. The provisions of Section 1 of this Act shall apply to any litigation in progress on the effective date of this Act.

The Committee on Judiciary reported **HB 216, HB 260, HB 353** with Committee Substitute attached thereto, **HB 363, HB 397, HB 537** with Committee Amendment attached thereto, **HB 554** and **HB 573** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 216, AN ACT relating to standards of fiduciary care and performance.

WHEREAS, a fiduciary is statutorily required to exercise those duties on behalf of his principal as are reasonable and equitable in view of the manner in which men of ordinary prudence, diligence, discretion, and judgment would act in the management of their own affairs; and

WHEREAS, the statutes of the Commonwealth require that a fiduciary obtain court approval prior to engaging in the performance of particularly specified financial transactions on behalf of the principal, including the sale of specified assets; and

WHEREAS, it is the finding of the General Assembly that submission by a fiduciary of a proposed financial transaction to the court for review conclusively evidences compliance by the fiduciary with applicable standards of fiduciary care and performance in regard to the proposition of the financial transaction;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

If a fiduciary is statutorily required to obtain court approval or in his discretion seeks court approval prior to completing the performance of a particularly specified transaction as that transaction relates to the administration of his fiduciary duty, submission by the fiduciary of the proposed transaction for review of the court shall constitute compliance by the fiduciary with applicable standards of fiduciary care and performance in regard to that transaction.

HB 260, AN ACT relating to motor vehicle offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) ***(a)*** Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(b) Any person who violates subsection (1) of KRS 189.580 shall be ***guilty of a Class A misdemeanor if the offense involves property damage only; a Class D felony if a person other than the defendant suffers physical injury as a result of the incident; and a Class C felony if a person other than the defendant dies or suffers serious physical injury as a result of the incident*** [~~fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both~~].

(c) Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall be fined two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days, or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(2) shall be fined fifty dollars ($50).

(25) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(26) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

HB 353, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of carrying a weapon on school property when he carries a deadly weapon or dangerous instrument on or about his person, whether concealed or not, while on or about property which is owned, leased, or used by a local board of education for the purposes of education or other school-related activity.

(2) This section shall not apply to:

(a) Employees of the local school board who have been granted permission by the school board to carry such a weapon or instrument; or

(b) Any other person who has been granted prior permission by the local school board to carry such a weapon or instrument because of a legitimate self-protection issue; or

(c) Employees of the local school board, other persons, and students engaged in Junior Reserve Officers Training Corps, firearm safety, hunter education, and marksmanship training and education programs and the programs have been approved in advance by the local school board; or

(d) Any person who is otherwise permitted by law to carry concealed weapons on or about their person.

(3) Carrying a weapon on school property is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed, in which case it is a Class D felony.

The Committee Substitute to **HB 353** is as follows:

HB 353, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of carrying a weapon on school property when he carries a deadly weapon on or about his person, whether concealed or not, while on or about property which is owned, leased, or used by a private elementary or secondary school or a local board of education for the purposes of education or other school-related activity.

(2) This section shall not apply to:

(a) Employees of the school board who have been granted permission by the school board to carry such a weapon; or

(b) Any other person who has been granted prior permission by the school board to carry such a weapon on school property because of a legitimate self-protection issue; or

(c) Employees of the school board, other persons, and students engaged in Junior Reserve Officers Training Corps, firearm safety, hunter education, and marksmanship training and education programs and the programs have been approved in advance by the school board; or

(d) Any person who is otherwise permitted by law to carry concealed weapons on or about their person.

(3) Carrying a weapon on school property is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed, in which case it is a Class D felony.

HB 363, AN ACT relating to probation and conditional discharge.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere; and

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work for a public agency of the Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. ***If*** [~~Where~~] there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court***, except that any restitution by payment to a governmental agency shall be paid directly to the governmental agency***;

(c) ***If***[~~Where~~] property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) [~~Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;~~

~~(e)~~] The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the State Tresury;

(e)[~~(f)~~] When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(f)[~~(g)~~] An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(5) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

HB 397, AN ACT relating to crime stoppers organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Crime stoppers organization" means a private, nonprofit organization that accepts and disperses donations for rewards to persons who:

(a) Report to the organization information concerning criminal activity and such information results in the arrest or indictment of the person committing the crime; or

(b) Provide to the organization information pertaining to the recovery or confiscation of stolen property, contraband or illegal controlled substances.

(2) Information provided in subsection (1) of this section shall be forwarded to the appropriate law enforcement agency.

SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

A crime stoppers organization shall:

(1) Foster the detection of crime and encourage persons to report information about criminal acts;

(2) Encourage news and other media to promote local crime stoppers organizations and to inform the public of the functions of the organization;

(3) Assist other crime stoppers organizations in forwarding information about criminal acts to the appropriate law enforcement agencies; and

(4) Help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies.

SECTION 3. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Records of a crime stoppers organization concerning a report of criminal activity shall not be compelled to be produced before a court or other tribunal except on the order of the Kentucky Supreme Court.

(2) Records of a crime stoppers organization relating to reports of criminal acts shall be confidential.

SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) A person who accepts a report of criminal activity on behalf of a crime stoppers organization shall be guilty of unlawful disclosure of information if the person intentionally or knowingly divulges to a person not employed by a law enforcement agency the identity of the person who made the report without the consent of the person who made the report.

(2) Unlawful disclosure of information under this section shall be a Class A misdemeanor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other penalty authorized by law, after a defendant has been convicted of an offense, excluding offenses committed under KRS Chapters 186 and 189, the judge shall order a defendant to repay all or part of a reward paid by a crime stoppers organization.

(2) In determining the amount the defendant shall repay to a crime stoppers organization under subsection (1) of this section, the court shall consider the importance of the information to the prosecution of the defendant as provided by the arresting officer or the prosecuting attorney with due regard for the confidentiality of the crime stoppers organization records.

(3) In this section, "crime stoppers organization" means an organization as defined by Section 1 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Upon an order to repay a reward or part of a reward under Section 5 of this Act, the court shall assess this cost against the defendant in the same manner as other costs of prosecution are assessed against a defendant. The court shall order the defendant to:

(a) Pay the entire amount required when sentence is pronounced; or

(b) Pay the entire amount required at a later date specified by the court.

(2) After receiving a payment from a person ordered to make the payment under this section, the clerk of the court shall:

(a) Make a record of the payment;

(b) Forward the payment to the designated crime stoppers organization; and

(c) Record the forwarding of the payment.

Section 7. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere; and

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work for a public agency of the Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the state treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) ***In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by Section 1 of this Act, relative to the probationer.***

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6)[~~(5)~~] When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

HB 537, AN ACT relating to statutory liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.080 is amended to read as follows:

(1) Any lien provided for in KRS 376.010 shall be dissolved unless the claimant, within six months after he ceases to labor or furnish materials, files in the office of the county clerk of the county in which the building or improvement is situated a statement of the amount due him, with all just credits and set-offs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the materials were furnished or the labor performed by contract with the owner or with a contractor or subcontractor. ***Lien statement forms shall require the name and address of the claimant. If the claimant is a corporation, the statement shall require the name and address of the corporation's process agent, or some other address at which service of process under the Rules of Civil Procedure may be accomplished. If no name and address is included in the statement, service of process in an action to enforce a lien may be accomplished by serving the person who signs the lien statement.*** This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf. The claimant shall send by regular mail a copy of the statement to the property owner at his last known address within seven (7) days of filing the statement with the county clerk. Any lien provided for in KRS 376.010 shall be dissolved if a copy of the statement is not sent to the property owner as provided in this subsection.

(2) The county clerk shall endorse upon each statement the date of its filing, and shall make an abstract of the statement in a book to be kept by him for that purpose, properly endorsed and indexed, containing the date of filing, the name of the person seeking to enforce the lien, the amount claimed, the name of the person against whose property the lien is filed, and a description of the property charged with the lien. The clerk shall receive a fee pursuant to KRS 64.012 from the person filing the statement as full compensation, which shall be taxed and collected as other costs.

The Committee Amendment No. 1 to **HB 537** is as follows:

Amend printed copy of **HB 537** on page 1, lines 19 and 20, to delete "***to enforce a lien***" and to insert in lieu thereof "***involving the real property***".

HB 554, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 237.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be imprisoned in the penitentiary for not less than one nor more than five years, or punished by a fine of not more than $1,000, or both.

(2) Any person who violates any of the provisions of KRS 237.030 to 237.050, and in so doing uses any destructive device or booby trap device to avoid detection by law enforcement or other government personnel or to avoid theft or detection by any other person, any controlled substance as set forth in KRS Chapter 218A and held in violation of KRS 218A.140, shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

HB 573, AN ACT relating to theft by deception.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. An issuer makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to an issuer that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the holder of ***ten dollars ($10.00)*** [~~five dollars ($5.00)~~], if said instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is one hundred dollars ($100) or more, in which case it is a Class D felony.

Calendar

HB 223, **HB 366**, **HB 596**, **HB 100**, **HB 459**, **HB 561**, **HB 436**, **HB 478** and **HB 509** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 445 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 47**, **HB 96**, **HB 103**, **HB 255**, **HB 295**, **HB 329** and **HB 377** have been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:14 p.m.)

HB 47, **HB 96**, **HB 103**, **HB 255**, **HB 295**, **HB 329** and **HB 377** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day

HB 36, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Substitute to **HB 36**. Agreed.

Representative Brown moved that **HB 36**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 22, 1990 roll call on **HB 36** - Appendix.)

HB 36, by way of Committee Substitute, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 36**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 496, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Floor Amendment No. 1 to **HB 496**. Agreed.

Representative Yates moved that **HB 496**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 22, 1990 roll call on **HB 496** - Appendix.)

HB 496, as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 496**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 231, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jackson moved the adoption of Floor Amendment No. 1 to **HB 231**. Agreed.

Representative Jackson moved that **HB 231**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 1. (See February 22, 1990 roll call on **HB 231** - Appendix.)

HB 231, as amended, was passed and the title agreed to.

Representative Jackson moved that the vote by which **HB 231**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 443 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Layman moved that **HB 443** be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See February 22, 1990 roll call on **HB 443** - Appendix.)

HB 443 was passed and the title agreed to.

Representative Layman moved that the vote by which **HB 443** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 473 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 473** be passed.

On the roll call the vote was: Yeas 74, Nays 8. (See February 22, 1990 roll call on **HB 473** - Appendix.)

HB 473 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 473** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 319 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 319** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 22, 1990 roll call on **HB 319** - Appendix.)

HB 319 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 319** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 60 with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 60** be passed.

On the roll call the vote was: Yeas 82, Nays 9. (See February 22, 1990 roll call on **SB 60** - Appendix.)

SB 60 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 60** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 47, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of House Committee Substitute to **SB 47**. Agreed.

Representative Morris moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SB 47**. Agreed.

Representative Curtsinger moved the adoption of Floor Amendment No. 2 to the House Committee Substitute to **SB 47**. Agreed.

Representative Gedling moved that **SB 47**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 2. (See February 22, 1990 roll call on **SB 47** - Appendix.)

SB 47, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **SB 47**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 30, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Substitute to **HB 30**. Agreed.

Representative Brown moved that **HB 30**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 22, 1990 roll call on **HB 30** - Appendix.)

HB 30, by way of Committee Substitute, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 30**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 34, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Substitute to **HB 34**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 34**. Agreed.

Representative Brown moved that **HB 34**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 22, 1990 roll call on **HB 34** - Appendix.)

HB 34, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 34**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 158, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of Committee Amendment No. 1 to **HB 158**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 158**.

On the roll call the vote was yeas 54—Adkins, Allen, Altman, Ballard, Bronger, Bruce, Butler, Callahan, L. Clark, P. Clark, Curtsinger, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Heleringer, Jackson, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lefevers, Lewis, Lile, Maggard, McElroy, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Rapier, Reinhardt, Richards, Riner, Sheehan, B. Smith, R. Smith, Strong, Todd, Turner, Walker, Ward, Yates. Nays 42—Ackerson, Ark, Arnold, Barrows, Bentley, Blevins, Brown, Burch, Casebier, Castleman, Cline, Crupper, Curd, Deskins, Farrow, Geveden, Gray, Hatcher, Hourigan, T. Jones, Lear, LeMaster, Little, Long, Lyne, Mack, Mason, McBee, Moberly, Noe, Preston, Pritchett, B. Richardson, P. Richardson, Ridley, Scorsone, Siler, Stokes, Stumbo, White, Worthington, Zimmerman.

Floor Amendment No. 1 to **HB 158** was adopted.

Representative Mack moved that **HB 158**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 11. (See February 22, 1990 roll call on **HB 158** - Appendix.)

HB 158, as amended, was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 158**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 10 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HB 10** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 22, 1990 roll call on **HB 10** - Appendix.)

HB 10 was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 10** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 494 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HB 494** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 22, 1990 roll call on **HB 494** - Appendix.)

HB 494 was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 494** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 368, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved the adoption of Committee Substitute to **HB 368**. Agreed.

Representative A. Jones moved that **HB 368**, by way of Commitee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 5. (See February 22, 1990 roll call on **HB 368** - Appendix.)

HB 368, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 368**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 544 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 544** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 22, 1990 roll call on **HB 544** - Appendix.)

HB 544 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 544** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 584, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of Floor Amendment No. 1 to **HB 584**. Agreed.

Representative McElroy moved that **HB 584**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 2. (See February 22, 1990 roll call on **HB 584** - Appendix.)

HB 584, as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 584**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 109, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of Committee Amendment No. 1 to **HCR 109**. Agreed.

Representative Worthington moved that **HCR 109**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 4. (See February 22, 1990 roll call on **HCR 109** - Appendix.)

HCR 109, as amended, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HCR 109**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 110 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HCR 110** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 22, 1990 roll call on **HCR 110** - Appendix.)

HCR 110 was passed and the title agreed to.

Representative Burch moved that the vote by which **HCR 110** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 511 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 511** be passed.

Representative Rapier moved that **HB 511** be laid on the Clerk's Desk.

On the roll call the vote was yeas 51—Adkins, Altman, Ark, Arnold, Barrows, Blevins, Bronger, Burch, Callahan, Castleman, L. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Gray, Gregory, Hancock, Hatcher, Hourigan, Jackson, Johnson, A. Jones, Kerr, Lear, LeMaster, Lewis, Little, Lyne, Mack, Mason, McBee, McElroy, Moberly, Nelson, Noe, Rapier, Richards, P. Richardson, Ridley, Scorsone, Sheehan, B. Smith, R. Smith, Stumbo, Yates, Zimmerman. Nays 43—Ackerson, Allen, Ballard, Bentley, Blandford, Bruce, Butler, Casebier, P. Clark, Cline, Ford, Freibert, Geveden, J. Harper, K. Harper, Heleringer, Jensen, T. Jones, Keith, Layman, Lefevers, Lile, Long, Maggard, Morris, Mullinix, Napier, Nett, Noland, Northup, O'Brien, Preston, Priddy, Reinhardt, B. Richardson, Riner, Siler, Strong, Todd, Turner, Walker, Ward, White.

The motion that **HB 511** be laid on the Clerk's Desk was adopted.

HB 590 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 590** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 22, 1990 roll call on **HB 590** - Appendix.)

HB 590 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 590** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Hancock moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Hancock moved the adoption of the following Legislative Citation No. 44. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates "Hambone" and Becky Lee on this glorious occasion, your Golden Wedding Anniversary, February 25, 1990. The love and affection that have filled your lives have touched those close to you. God blessed you with his priceless gift of love — your sons Bill and Joe.

May God continue to bless you and your family and may you have everlasting love, health and happiness.

This prestigious body joins Representative Hank Hancock in extending to you our best wishes.

Representative Noland moved that the rules be suspended to introduce and act upon a Resolution.

HR 143, by Representative Noland: A RESOLUTION memorializing and adjourning in honor of former Representative Arnold Floyd Bush of Ravenna.

Representative Noland moved the adoption of the following **HR 143**:

HR 143, A RESOLUTION memoralizing and adjourning in honor of former Representative Arnold Floyd Bush of Ravenna.

WHEREAS, former Representative Arnold Floyd Bush died Tuesday at the age of 80 after a long illness; and

WHEREAS, former Representative Arnold Floyd Bush ably served the Commonwealth as Representative of the 77th District two consecutive terms 1956 through 1959; and

WHEREAS, Arnold Floyd Bush had previously held other elective offices, including city commissioner, city councilman, and Estill County Democratic Chairman; and

WHEREAS, Arnold Floyd Bush was a retired CSX Railroad conductor, a member of the Irvine Masonic Lodge #137, Free and Accepted Masons, and a member of the Ravenna Christian Church;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its profound grief over the loss of this valued member and friend and extends its sympathy to his family.

Section 2. That the House laments the loss of Arnold Floyd Bush and extends its sympathy to his wife, Reyna Bush of Ravenna; daughter, Judy Burns of Irvine; daughter, Betsy Noland of Lexington; and son, Dan R. Bush of Springfield, Virginia.

Section 3. That when the House adjourns this day, Thursday, February 22, 1990, it does so in memory and honor of Arnold Floyd Bush.

Section 4. That the Clerk of the House transmit four copies of this resolution to Mrs. Reyna Bush of Ravenna, Kentucky.

HR 143 was adopted by voice vote.

Representative McElroy moved that **HB 662** be withdrawn. Agreed.

Representative K. Harper moved that the rules be suspended to introduce and act upon a Resolution.

HR 138, by Representative K. Harper: A RESOLUTION honoring Pauline Banks.

Representative K. Harper moved the adoption of the following **HR 138**:

HR 138, A RESOLUTION honoring Pauline Banks.

WHEREAS, Pauline Banks, of Ft. Mitchell, Kentucky, received her Bachelor of Arts degree from Thomas More College in 1964, and her Masters degree from Xavier University in 1983; and

WHEREAS, Pauline Banks, for the past nine years, has taught language arts and religion in the fifth grade and in the Junior High at Blessed Sacrament School in Ft. Mitchell, Kentucky; and

WHEREAS, Pauline Banks, serving as president of the Campbell-Kenton Medical Auxiliary initiated the "Lizzie the Lion Educational Program", designed to lessen children's fears of hospital confinement; and

WHEREAS, Pauline Banks, throughout her teaching career, has taught accurately, thoroughly, and earnestly, while at the same time, awakening interest and stimulating enthusiasm among her students; and

WHEREAS, Pauline Banks has inspired the development of good Christian character among her students; and

WHEREAS, Pauline Banks is an active participant of the broader Parish and Diocesan Faith Communities, and her contributions as a Eucharistic Minister and Lector are highly valued in the hearts of the Blessed Sacrament School Community; and

WHEREAS, Pauline Banks is one of twelve teachers recognized nationally by the National Catholic Education Association representing Region 5, which includes the states of Alabama, Kentucky, Louisiana, Mississippi, Tennessee, and the Caroline-Marshall Islands; and

WHEREAS, Pauline Banks is a 1990 recipient of the prestigious Miriam Joseph Farrell Award for Distinguished Service to Catholic Elementary School Education; and

WHEREAS, Pauline Banks will receive her honored award at the annual National Catholic Education Association Convention being held April 16, through April 19, 1990, in Toronto, Canada;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body recognizes the excellent quality of professionalism that Pauline Banks has exhibited throughout her teaching career, and her community is indeed blessed to have such an outstanding role model for young people.

Section 2. That this honorable body congratulates Pauline Banks, recipient of the Miriam Joseph Farrell Award, and wishes her continued future success.

Section 3. That when the House of Representatives adjourns this day, Thursday, February 22, 1990, it does so in honor of Pauline Banks.

Section 4. That the Clerk of the House of Representatives is directed to transmit two copies of this resolution to Pauline Banks, Blessed Sacrament School, 2407 Dixie Highway, Ft. Mitchell, Kentucky 41017.

HR 138 was adopted by voice vote.

Representative Sheehan moved that **HB 251** be withdrawn. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 676, by Representative Deskins: AN ACT relating to mining.

HB 677, by Representative Little: AN ACT relating to insurance.

HB 678, by Representative Ridley: AN ACT relating to motor carriers.

HB 679, by Representatives Sheehan, Callahan and Donnermeyer: AN ACT relating to the Kentucky Athletic Commission and declaring an emergency.

HB 680, by Representative Callahan: AN ACT relating to crimes and punishments.

HB 681, by Representative Donnermeyer: AN ACT relating to alcoholic beverage licenses in counties containing a city of the fourth class.

HB 682, by Representative Donnermeyer: AN ACT relating to public records.

HB 683, by Representative Donnermeyer: AN ACT relating to the establishment of the Communications Advisory Council of the Kentucky Information Systems Commission.

HB 684, by Representatives Little and Cyrus: AN ACT relating to employment.

HB 685, by Representatives Brown, LeMaster, Noe, Moberly, Lear, Bentley, Freibert, Mack, Deskins, Stumbo, Blevins and Scorsone: AN ACT relating to solid waste.

HB 686, by Representatives Morris and Bruce: AN ACT relating to Commonwealth's attorneys.

HB 687, by Representatives Priddy, Bronger, L. Clark, P. Clark, Yates, Butler, Ward, O'Brien, Cyrus, McElroy, A. Jones, Altman, Napier, Jackson, Gray, Blevins, Moberly, Brown, Burch, Deskins, Maggard, Adkins, Cline, Lewis, Donnermeyer, Johnson, B. Richardson, Turner, Hatcher, Lefevers, Noland, Bentley, Siler, Ballard, Lile, Nelson and Nett: AN ACT relating to wages and hours.

HB 688, by Representatives Napier, J. Harper, Nelson, Lefevers, Noland, Jensen and Arnold: AN ACT relating to special fuels.

HB 689, by Representative Ward: AN ACT relating to the collection of property taxes.

HB 690, by Representative Cyrus: AN ACT relating to collective bargaining.

HCR 139, by Representative Burch: A CONCURRENT RESOLUTION urging the inclusion of a pilot percentage of income plan in Jefferson County in the 1990-91 and the 1991-92 state energy assistance plans.

HR 140, by Representative Richards: A RESOLUTION recommending against the passage of the United States Senate Bill 1630 regarding the Clean Air Act reauthorization.

HCR 141, by Representative Ford: A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the feasibility of placing a Kentucky civil war monument at Vicksburg, Mississippi.

HR 142, by Representative Strong: A RESOLUTION adjourning the House of Representatives in memory and honor of James Fugate.

Report of Committees

The Committee on Rules reported **HB 223**, **HB 366**, **HB 436** and **HB 596** have been posted for passage in Orders of the Day, February 23, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, February 23, 1990: **HB 445**.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 478**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Labor and Industry: **HB 628**.

Appropriations and Revenue: **HB 378**.

Counties and Special Districts: **HB 569**, **HB 571**, **HB 585**, **HB 667**, **SB 188**, **SB 166**, **SCR 20**.

Natural Resources and Environmental Protection: **HB 390**.

Health and Welfare: **HB 189**, **HB 450**.

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Banking and Insurance: **HB 558**.

Natural Resources and Environmental Protection: **HB 291**.

Report of Committees

The Committee on Cities reported **HB 23** with Committee Substitute attached thereto, **HB 431**, **HB 483**, **HB 560** with Committee Substitute attached thereto, **SB 6**, **SB 7**, **SB 8**, **SB 18**, **SB 213** and **SB 214** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 23, AN ACT relating to complaints against police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.520 is amended to read as follows:

(1) In order to establish a minimum system of professional conduct of the police officers of local units of government of this Commonwealth the following standards of conduct are stated as the intention of the general assembly to deal fairly and set administrative due process rights for police officers of the local unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken ***as follows:***

1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;

2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;

3. If a complaint is required to be obtained and the individual upon request refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department shall bring charges against the police officer only if there is an independent source of information outside the allegations of the complainant upon which to prefer charges and commence disciplinary action [~~under oath in the form of an affidavit, signed, and sworn to by the complainant and duly notarized~~];

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion;

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. ***The interrogation shall be conducted while the officer is on duty. The police officer shall have the right to have present at the interrogation counsel or other representative in his behalf.***[~~; however,~~] Such police officer may be required to submit a written report of the alleged incident ***during the tour of duty during which the department has been made aware of the allegations but in no case later than ten (10) days after the alleged misconduct was alleged to have occurred*** [~~no later than the end of the tour of duty in which the incident is alleged to have occurred~~];

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to the right to remain silent, the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of such charges;

(e) Any charge involving violation of any local unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself. ***The*** [~~Said~~] charge shall be served on the police officer in writing ***prior to the effective date of the disciplinary action***;

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the local unit of government or the police officer so charged, until final disposition of the charges;

(g) No police officer as a condition of continued employment by the local unit of government shall be compelled to speak or testify or be questioned by any person or body of a non-governmental nature; and

(h) ***Any police officer subject to discipline as a result of allegations of misconduct or violations of government rules and regulations shall be given a hearing and*** [~~When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes,~~] the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;

2. Copies of any sworn statements or affidavits ***obtained in the investigation of the alleged misconduct or alleged violation of government rules and regulations*** [~~to be considered by the hearing authority~~] shall be furnished to the police officer no less than ***seventy-two (72)*** [~~twenty-four (24)~~] hours prior to the time of ***any*** [~~the~~] hearing;

3. If ***any*** [~~the~~] hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;

4. If the return receipt [~~as hereinabove referred to~~] has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;

5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;

6. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence

the police officer wishes to provide to the hearing authority, and shall have the right to cross-examination of any and all witnesses called by the charging party; [~~and~~]

7. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, said charge then shall be dismissed with prejudice and not be considered by any hearing authority and such officer shall be reinstated with full back pay and benefits***; and***

8. The failure to provide any of the above referred to rights or to follow the provisions of this section shall result in the dismissal with prejudice of the charges and the officer shall be reinstated with full back pay and benefits.

(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the circuit court in the county in which said local unit of government may be located to contest the action of that hearing authority, and said action shall be tried as an original action by the court. ***The circuit court shall enter judgment affirming, modifying or setting aside the action of the hearing authority.***

(3) The judgment of the circuit court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance or working agreement.

(4) The provisions of this section shall apply only to police officers of local units of government who receive funds pursuant to KRS 15.410 through 15.992.

The Committee Substitute to **HB 23** is as follows:

HB 23, AN ACT relating to complaints against police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.520 is amended to read as follows:

(1) In order to establish a minimum system of professional conduct of the police officers of local units of government of this Commonwealth the following standards of conduct are stated as the intention of the general assembly to deal fairly and set administrative due process rights for police officers of the local unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken ***as follows:***

1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;

2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;

3. If a complaint is required to be obtained and the individual upon request refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant [~~under oath in the form of an affidavit, signed, and sworn to by the complainant and duly notarized~~];

4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion. ***Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension***;

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. ***The interrogation shall be conducted while the officer is on duty.***[~~; however,~~] Such police officer may be required to submit a written report of the alleged incident ***provided***

that the request shall be made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges [~~no later than the end of the tour of duty in which the incident is alleged to have occurred~~];

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to the right to remain silent, the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of such charges;

(e) Any charge involving violation of any local unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself. ***The*** [~~Said~~] charge shall be served on the police officer in writing;

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the local unit of government or the police officer so charged, until final disposition of the charges;

(g) No police officer as a condition of continued employment by the local unit of government shall be compelled to speak or testify or be questioned by any person or body of a non-governmental nature; and

(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;

2. Copies of any sworn statements or affidavits to be considered by the hearing authority ***and any exculpatory statements or affidavits*** shall be furnished to the police officer no less than ***seventy-two (72)*** [~~twenty-four (24)~~] hours prior to the time of ***any*** [~~the~~] hearing;

3. If ***any*** [~~the~~] hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;

4. If the return receipt [~~as hereinabove referred to~~] has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;

5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;

6. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and shall have the right to cross-examination of any and all witnesses called by the charging party; [~~and~~]

7. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, said charge then shall be dismissed with prejudice and not be considered by any hearing authority and such officer shall be reinstated with full back pay and benefits***; and***

8. The failure to provide any of the above referred to rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude profferred evidence based on failure to follow the requirements of this section but shall consider whether, because of such failure, the profferred evidence lacks weight or credibility and whether the officer has been materially prejudiced.

(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the circuit court in the county in which said local unit of government may be located to contest the action of that hearing authority, and said action shall be tried as an original action by the court.

(3) The judgment of the circuit court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance or working agreement.

(4) The provisions of this section shall apply only to police officers of local units of government who receive funds pursuant to KRS 15.410 through 15.992.

HB 431, AN ACT relating to urban-county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that the needs of large urban areas in the field of detention, institutionalization, and rehabilitation of offenders and public wards are more specialized, acute, and distinct than the needs of smaller communities, and require programs peculiarly suited to the needs of large, urban areas, and that in order to protect, enhance, and maintain the public safety, health, and general welfare, it is necessary that legislative bodies of counties containing an urban-county government where the constitutional offices of sheriff and jailer have been consolidated, be empowered to create correctional services divisions which shall be divisions of urban-county government, and which will be vested with the duty, responsibility, and power to maintain and operate all of the correctional, detention, and rehabilitative facilities of such counties in a professional and competent manner.

(2) A correctional services division may be established by ordinance of the legislative body of any county containing an urban-county government in which the constitutional offices of sheriff and jailer have been consolidated as provided in Section 105 of the Constitution of the Commonwealth of Kentucky. A division shall, upon its creation, have all of the duties, responsibilities, and liabilities of the sheriff and jailer as set forth and contained in the Kentucky Revised Statutes, with reference to the operation and maintenance of the county jail and all county correctional facilities. The sheriff and jailer shall, notwithstanding any other statutory provision to the contrary, have no further repsonsibility, duty, and liability for the performance of statutory duties on a personal basis. The sheriff shall be required to annually inspect all county correctional facilities and render a written report to the urban-county government legislative body and to the secretary of the Corrections Cabinet regarding the general operation of all correctional facilities. The report shall furnish, in detail, information regarding the number of prisoners, detainees, and public wards who are inmates of each correctional facility; the offenses or causes for their incarceration, the length of stay; and further reports regarding rehabilitative programs instituted and being carried on by the division as may be required for a complete accounting and report.

(3) The correctional services division shall, subject to the approval and authorization of the legislative body of the urban-county government, generally administer, operate, and maintain all county correctional facilities, and formulate and implement necessary correctional and rehabilitative programs. All employees of the division, including the director, shall be members of the classified civil service system established pursuant to KRS 67A.210 et seq.

Section 2. KRS 71.110 is amended to read as follows:

The offices of sheriff and jailer in counties containing a city of the first class ***or an urban-county government*** shall be consolidated, but the office of sheriff shall be retained; and the sheriff hereafter in such counties shall perform the duties of jailer.

Section 3. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex;

(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company or association;

(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering or death is caused or permitted;

(10) "Directors," when applied to corporations, includes managers or trustees;

(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) "Federal" refers to the United States;

(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) "Land" or "real estate" includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) "Legatee" and "devisee" convey the same idea;

(20) "May" is permissive;

(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan ***and urban-county government*** correctional officers, marshals, policemen and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization whether or not the money has ever been paid into the treasury and whether or not the money is still in the treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the legislative research commission pursuant to KRS 42.600, 42.605 and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year; and

(38) "City" includes town.

Section 4. This Act shall become effective January 3, 1994.

HB 483, AN ACT relating to political activities of local government employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be appointed to any position in any city or county government because of political, partisan service rendered by him or his family, or because of political sentiment or affiliation, nor shall any person be dismissed, suspended or reduced in grade or pay because of any political opinion.

(2) The appointment and continuance of employment of all persons in any city or county government shall depend solely upon their ability and willingness to perform their duties, and shall not be a reward for political activity or contribution to campaign funds.

(3) No employee shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No employee shall be active in politics or work for the election of candidates while on duty.

(5) No employee shall use any government owned vehicle, office equipment, or other material for the promotion of any political party or candidate for any public office.

Section 2. KRS 67A.310 is amended to read as follows:

(1) No person shall be appointed to any position because of political, partisan service rendered by him or his family, or because of political sentiment or affiliation, nor shall any person be dismissed, suspended or reduced in grade or pay because of any political opinion.

(2) The appointment and continuance of employment of all persons shall depend solely upon their ability and willingness to perform their duties, and shall not be a reward for political activity or contribution to campaign funds.

(3) No employee shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No employee shall be active in politics or work for the election of candidates while on duty.

(5) No employee shall use any government owned vehicle, office equipment, or other material for the promotion of any political party or candidate for any public office.

Section 3. KRS 61.990 is amended to read as follows:

(1) Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of KRS 61.300 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both.

(2) Any person who violates any of the provisions of KRS 61.360 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) or be imprisoned not less than ten (10) days nor more than sixty (60) days, or both.

(3) Any person who willfully violates the provisions of KRS 61.102(1) shall be guilty of a Class A misdemeanor.

(4) A court, in rendering a judgment in an action filed under KRS 61.102 and 61.103, shall order, as it considers appropriate, reinstatement of the employe, the payment of back wages, full reinstatement of fringe benefits and seniority rights, exemplary or punitive damages, or any combination thereof. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees.

(5) Any person who knowingly violates the provisions of Section 1 of this Act shall be guilty of a Class A misdemeanor. Each incident which is found to be in violation of Section 1 of this Act shall constitute a separate offense for purposes of this Act.

Section 4. KRS 67A.990 is amended to read as follows:

(1) Any person who knowingly makes any false statement, or falsifies, or permits to be falsified, any record or records of the fund established pursuant to KRS 67A.370, in any attempt to defraud the fund, shall be fined not less than five hundred dollars ($500) or imprisoned in the county jail for not more than twelve (12) months, or both, and the fund shall have the right to recover any payments made under false representations.

(2) Any person who knowingly violates the provisions of KRS 67A.310 shall be guilty of a Class A misdemeanor. Each incident which is found to be in violation of KRS 67A.310 shall constitute a separate offense for purposes of this Act.

HB 560, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

(1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;

(2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural and recreational land uses;

(3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee. ***The*** [~~Such~~] channels, routes, and terminals may include, without being limited to all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;

(4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee. ***The*** [~~Such~~] facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities; [~~and~~]

(5) ***A regional impact plan element, which shall include analysis of the impact of anticipated development on the land use, transportation and community facilities of cities and counties adjacent to the planning unit. The regional impact plan element may include consideration of additional factors such as community renewal, housing, flood control, pollution, conservation, natural resources, historic preservation and other programs which, in the judgment of the planning commission will further serve the purposes of the regional impact plan; and***

(6) The comprehensive plan may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, ***environmentally sensitive areas, historic preservation,*** and other programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Section 2. KRS 100.193 is amended to read as follows:

(1) The planning commission of each planning unit shall prepare and adopt the statement of goals and objectives to act as a guide for the preparation of the remaining elements and the aids to implementing the plans. The statement shall be presented for consideration, amendment and adoption by the legislative bodies and fiscal courts in the planning unit. During its preparation and that of the other plan elements, it shall be the duty of the planning commission to consult with public officials and agencies, boards of health, school boards, public and private utility companies, civic, educational, professional and other organizations, and with citizens.

(2) During the preparation of the statement of goals and objectives, and at least fourteen (14) days prior to any public hearing on the adoption, amendment, or re-adoption of any element of the comprehensive plan, the planning commission shall give notice of the preparation of the statement or the hearing to the following public officials in each city and county adjacent to the planning unit:

(a) If the adjacent city or county is part of a planning unit, the notice shall be sent to the planning commission of that unit; or

(b) If the adjacent city or county is not part of a planning unit, the notice shall be sent to the chief executive officer of that city or county government.

(3) The notice required in subsection (2) of this section, and a copy of the proposed comprehensive plan element, shall also be given to the regional planning council of the area development district in which the planning unit is located. The council shall coordinate the review and comments of local governments and planning units affected by the proposal and make recommendations designed to promote coordinated land use in the area development district.

(4) Any planning unit which is adopting, amending, or re-adopting any element of the comprehensive plan may conduct a hearing to receive testimony from adjacent planning units, city or county governments, the regional planning council of the area development district, or a regional planning advisory committee.

Section 3. KRS 100.197 is amended to read as follows:

(1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of goals and objectives. The various elements may be adopted as they are completed, or as a whole when all have been completed. The planning commission shall hold a public hearing and adopt the elements. The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical and physical advancements or changes. At least once every five (5) years, the commission shall amend or re-adopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or re-adoption shall occur only after a public hearing before the planning commission.

(2) The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then ***the*** [~~such~~] proposed amendments ***shall*** [~~must~~] be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, [~~then~~] it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(3) Within fourteen (14) days after its adoption, amendment, or re-adoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties and planning units, following the procedures provided in subsection (2) of Section 2 of this Act.

Section 4. KRS 100.209 is amended to read as follows:

(1) When a city which has adopted zoning or other land use regulations pursuant to this chapter proposes to annex new territory, it may amend its comprehensive plan and official zoning map to incorporate and establish zoning or other land use regulations for the property proposed for annexation prior to adoption of the ordinance of annexation. If the city elects to follow this procedure, the planning commission shall hold a public hearing, after the adoption of the ordinance stating the city's intention to annex and prior to final action upon the ordinance of annexation, for the purpose of adopting the comprehensive plan amendment and making its recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation. Notice setting forth the time, date, location, and purpose

of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the planning commission's recommendations prior to adoption of the ordinance of annexation and shall include in the ordinance of annexation a map showing the zoning or other land use regulations which will be effective for the annexed property. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation, the newly annexed territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation until those restrictions are changed by zoning map amendments or other regulations in accordance with this chapter.

(2) When [~~a city annexes new territory or when~~] a city is created or when a city of the fifth or sixth class is reclassified to a city of the fourth class or higher in a county containing a city of the first class, and the intent is to regulate land ***use within the confines of the city, the process for adopting or amending the comprehensive plan and adopting zoning or other land use regulations shall be as provided for in this chapter. Until such actions have been taken, the properties within the city shall remain subject to the land use restrictions, if any, as applied prior to the creation or reclassification of the city*** [~~development, the process to adopt or amend a comprehensive plan, zoning ordinance, subdivision regulations, public improvements program or official map for the affected territory shall be as required by this chapter. The planning commission shall be permitted to hold public hearings on such proposed adoption or amendments as required by this chapter prior to final action on the annexation, creation or incorporation. The legislative body may take action adopting existing applicable goals and objectives and existing applicable regulations without a new public hearing, but a public hearing shall be required if any change to such goals and objectives or regulations are proposed. Until such actions have been taken, prior laws shall remain in effect and prior governing authority shall control~~].

Section 5. KRS 100.212 is amended to read as follows:

When in any planning unit except for a planning unit containing a city of the first class, a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation or ordinance:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission; and

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of ***the*** [~~said~~] owner. ***If the*** [~~In the event such~~] property is in condominium or cooperative forms of ownership, [~~then~~] the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(3) If the property the classification of which is proposed to be changed adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 6. KRS 100.3681 is amended to read as follows:

(1) Effective October 1, 1988, the county clerk of every county containing a planning unit which has

enacted land use regulations pursuant to this chapter shall, upon receipt of a recording fee of ten dollars and fifty cents ($10.50), file and maintain among the official records of his office certificates of land use restriction completed according to this section and KRS 100.3682 to 100.3684. The certificates shall be in the form designated in KRS 100.3683; shall be completed and filed by the secretary of the planning commission, board of adjustment, legislative body or fiscal court which finally adopts or imposes the land use restriction described in the certificate; and shall be filed within thirty (30) days of the date upon which the body takes final action to impose or adopt the restriction. The certificate shall set forth the name and address of the property owner; the address of the property; the name of the subdivision or development, if there is one; the name and address of the body which maintains the original records containing the restriction; and shall indicate the type of land use restriction adopted or imposed upon the subject property on or after October 1, 1988, including variances, conditional use permits, conditional zoning conditions, ***unrecorded*** subdivision plats and development plans; but not including zoning map amendments which impose no limitations or restrictions upon the use of the subject property other than those generally applicable to properties within the same zone ***and not including any recorded subdivision plat***. The county clerk shall index the certificates by property owner and, if applicable, name of subdivision or development. The county clerk shall maintain in his office a record of the name and address of the agency having custody of the official zoning map for each planning unit within the county. All zoning map amendments shall be reflected on the official zoning map within thirty (30) days of the date upon which final action approving ***the*** [~~such~~] amendments is taken by the planning unit.

(2) The planning unit shall collect the county clerk's filing fee for the certificate from the applicant at the time any proceeding is initiated which may result in the imposition, adoption, amendment or release of any land use restriction provided for in this chapter; and the planning unit may also charge the applicant a fee for the reasonable cost of completing and filing the certificate, not to exceed ten dollars and fifty cents ($10.50), in addition to any other applicable filing or administrative fee, to compensate the planning unit for completing and filing the certificate. The fees permitted by this Act shall be refunded to the applicant in the event no land use restriction is imposed or adopted as a result of the proceeding.

(3) When a restriction reflected on the certificate is amended, a new certificate shall be filed. In the case of such amendment or in the event the original restriction is released, the previous certificate shall be released by the secretary of the body which amended or released the restriction in the same manner as releases of encumbrances upon real estate.

(4) The failure to file, to file on time, or to complete the certificate properly or accurately shall not affect the validity or enforceability of any land use restriction or regulation. Any improper filing may be cured by a subsequent proper filing. Nothing herein shall affect the running of time for any appeal or other act for which a time limit is prescribed by this chapter.

Section 7. KRS 100.3682 is amended to read as follows:

If [~~In the event~~] a planning commission, fiscal court or legislative body originates a zoning map amendment for more than five (5) contiguous properties, upon approval of ***the*** [~~such~~] map amendment, there shall be filed a single certificate setting forth the required information for all the properties, and the originating body shall pay a single filing fee for such certificate. ***When*** [~~Whenever~~] a land use restriction is imposed upon two (2) or more properties or lots in the same proceeding, including but not limited to the approval of a ***an unrecorded*** [~~a~~] subdivision plat or development plan for multiple lots, a single certificate shall be filed for all ***the*** [~~such~~] properties or lots collectively and a single filing fee shall be paid therefor.

Section 8. KRS 100.3683 is amended to read as follows:

The form for the certificate of land use restriction required by KRS 100.3681 shall be as follows:

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (s)

2. ADDRESS OF PROPERTY

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. TYPE OF RESTRICTION(s) (Check all that apply):

____ Zoning Map Amendment to

____Zone

____ Development Plan

____ *Unrecorded* Subdivision Plat

____ Variance

____ Conditional Use Permit

____ Conditional Zoning

Condition

____ Other ______________________
specify

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

____

____

____

____

____
Signature of Completing Official

____
Name and Title of Completing Official
(Type or print)

SECTION 9. A NEW SECTION OF KRS 147A.050 TO 147A.120 IS CREATED TO READ AS FOLLOWS:

(1) There shall be established in each area development district a regional planning council to act in an advisory capacity on planning matters throughout the district.

(2) The regional planning council shall be composed of one (1) representative from each planning unit in the area development district. Each representative shall be appointed annually by the planning commission of each planning unit in the district. To be eligible for appointment to the council, a person shall be a member of the planning commission, or the planning commission's professional staff.

(3) At its first regular meeting in each year, the council shall elect from its membership a president and vice-president. The vice-president shall have the authority to act as president of the council during the absence or disability of the president.

(4) The council shall meet at the call of the president, but at least quarterly in each year.

(5) To insure compatible treatment of planned development throughout the district, the council may review comprehensive plans and land use regulations and policies promulgated by planning units within the district, may develop transportation, infrastructure and land use plans for the district, and may make recommendations on proposed comprehensive plans and plan amendments of planning units within the district.

(6) The area development district shall provide staff and technical support as requested by the council.

(7) The council may offer training and education opportunities in the area of planning and zoning matters to planning commission members and staff in the district.

Section 10. KRS 100.131 is amended to read as follows:

An independent city planning unit or members of a joint planning unit composed only of two (2) or more cities may exercise extraterritorial jurisdiction for the purposes of subdivision regulations, ***zoning control over solid and hazardous waste landfills and incinerators,*** and, with the consent of the fiscal court, other regulations, up to five (5) miles from all points upon the city's boundary, but not beyond the county boundary, nor within the boundary of any city not in ***the*** [~~such~~] planning unit, provided, however, that where the extraterritorial jurisdiction of planning units overlap, the boundary shall be midway between them. The jurisdiction of joint city-county and regional planning units shall be coterminous with their political boundaries.

Nothing herein, however, shall prevent any planning unit from making planning studies of areas located outside its jurisdiction.

Section 11. KRS 100.221 is amended to read as follows:

(1) Each board of adjustment shall conduct meetings at the call of the chairman who shall give written [~~or oral~~] notice to all members of the board ***and to any city or county government or planning unit which is adjacent to the board's planning unit. The notice shall be given*** at least seven (7) days prior to the meeting ***and***[~~, which notice~~] shall contain the date, time and place for the meeting, and the subject or subjects which will be discussed.

(2) A simple majority of the total membership of a board of adjustment as established by agreement shall constitute a quorum. Any member of a board of adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.

(3) All boards of adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings, including regulations, transactions, findings, and determinations, and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the board. If the board has no office, such records may be kept in custody of an officer of the board and shall be available to the general public. A transcript of the minutes of a board of adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

(4) A board of adjustment may appoint one (1) or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make recommendations to the board based upon a transcript or record of the hearing.

Section 12. KRS 100.123 is amended to read as follows:

(1) [~~At any time,~~] The legislative bodies of the cities and counties comprising two (2) or more adjacent planning units whose combined territory form a logical functional area, or portion thereof, by reasons of physical, economic, or social features may enter into an agreement to form a regional planning unit. The agreement for such regional unit may permit the continuation of any of the joint units and their planning commissions, or may serve to replace them. If any joint units are to continue in operation, the agreement shall state clearly the division or assignment of functions between the regional and joint units. Such regional units, shall be financed by the legislative parties in accordance with the agreement.

(2) The legislative bodies of the cities and counties described in subsection (1) of this section may, by agreement, form one (1) or more multi-district planning advisory committees which shall be authorized to review proposed amendments to the comprehensive plan or zoning map of any of the member planning units. The advisory committee may submit its comments and recommendations on the proposals to any planning unit in the region. A planning unit may participate in separate planning advisory committees with each adjoining planning unit.

Section 13. KRS 100.281 is amended to read as follows:

Subdivision regulations shall be based on the comprehensive plan, in those counties which have adopted a comprehensive plan, and all subdivision regulations shall contain:

(1) The procedure for the submission and approval of preliminary and final plat and the recordation of final plats. The commission may delegate to its secretary or any other officer or employe the power to approve plats in accordance with the commission's adopted requirements, but all plats, preliminary and final, shall be approved or disapproved within ninety (90) days;

(2) Specifications for the contents and the format of all subdivision plats;

(3) Requirements for the design of streets, blocks, lots, utilities, recreation areas, other facilities, hazardous areas, and areas subject to flooding. Such requirements may deal with all forms of land use including residential, commercial, industrial, and other uses. ***If the subdivision plat includes a proposal for any street to cross a jurisdictional line out of the planning unit, the commission shall require that notice of the proposal be given to the planning unit into which the road will cross. If there is no planning unit for that area, the notice shall be given to the affected city or county government***;

(4) Specifications for the physical improvements of streets, utilities, and other facilities, and the extent to which they shall be installed or dedicated as conditions precedent to approval of any plat, including the provision of good and sufficient surety to insure proper completion of physical improvements; and

(5) Specifications for the extent to which land is to be used for public purposes shall be reserved as a condition precedent to approval by the commission of any subdivision plat. The planning commission may require a reservation, not to exceed two (2) years, for parks, open space, school and other public uses.

(6) The text may empower the planning commission to hear and finally decide applications for variances when a proposed development requires a subdivision and one (1) or more variances.

(7) In any regulation adopted pursuant to subsection (6) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustment pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247 and 100.251 in a circumstance provided for by subsection (6) of this section; and

(b) The text shall provide that the applicant for the subdivision at the time of the filing of the application for the subdivision may elect to have any variance for the same development to be heard and finally decided by the planning commission at the same public hearing set for the subdivision, or by the board of adjustment as otherwise provided for in this chapter.

Section 14. KRS 81A.420 is amended to read as follows:

(1) ***When*** [~~Whenever~~] a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. ***The*** [~~Such~~] ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory. [~~If zoning has been adopted by the annexing city, then following a public hearing and recommendations by the planning commission for the city, the ordinance shall include a map showing the zoning that will be effective for the annexed area.~~]

(2) If following the publication of the annexation ordinance pursuant to subsection (1) of this section and within sixty (60) days thereof, or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days of February 12, 1988, fifty percent (50%) of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after the petition is presented to the county clerk:

(a) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of ______________?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex;

(b) If less than fifty-five percent (55%) of those persons voting oppose annexation, the unincorporated territory shall become a part of the city; and

(c) If fifty-five percent (55%) or more of those persons voting oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose.

(3) In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received by the mayor as set out herein, or within sixty (60) days of the certification of election results in which less than fifty-five percent (55%) of those persons voting opposed annexation, the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. ***If the city has elected to establish the zoning for the new territory prior to the completion of the annexation pursuant to KRS 100.209, the ordinance shall include a map showing the zoning.*** Upon the enactment of this ordinance, the territory shall become part of the city for all purposes.

Section 15. KRS 82.400 is amended to read as follows:

(1) If any person desires to offer for dedication by recorded plat any public way or easement within the city limits, he shall file with the city legislative body a map or plat of the territory bounded, intersected or immediately adjacent to the proposed public way or easement, showing the proposed name, nature and dimensions of the public way or easement offered for dedication. If the city legislative body decides the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) Except as provided for by ordinance in a city of the first class or in a county containing a city

of the first class, subdivision regulations which have been adopted as provided in KRS Chapter 100, and where streets or public ways as dedicated on the final subdivision plat have been constructed, inspected, and approved in accordance with the subdivision regulations, then the procedure for filing the map or plat with the city legislative body as required in subsection (1) of this section shall be waived, and the dedicated street or public way shall automatically be deemed beneficial to the public interest ***and shall be, by operation of law, automatically accepted for***[~~, subject to acceptance and~~] maintenance by the city forty-five (45) days after inspection and final approval, and shall be a public way for all purposes***, KRS Chapter 83A, regarding a city's adoption of ordinances notwithstanding***.

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city as a public way or easement, subject to acceptance by the city. The city may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city for all purposes. The lack of an actual dedication to the city, or of a record title on the part of the city, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years. Provided, however, that no property of a carrier by rail, as defined in KRS 276.010(3), shall be presumed to be dedicated as a public way or easement under this section or any other rule of law in force in this state unless the carrier consents to said dedication in writing.

The Committee Substitute to **HB 560** is as follows:

HB 560, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

(1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;

(2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural and recreational land uses;

(3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee. ***The*** [~~Such~~] channels, routes, and terminals may include, without being limited to all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;

(4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee. ***The*** [~~Such~~] facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities; and

(5) The comprehensive plan may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, ***regional impact, historic preservation,*** and other programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Section 2. KRS 100.193 is amended to read as follows:

(1) The planning commission of each planning unit shall prepare and adopt the statement of goals and objectives to act as a guide for the preparation of the remaining elements and the aids to implementing the plans. The statement shall be presented for consideration, amendment and adoption by the legislative bodies and fiscal courts in the planning unit. During its preparation and that of the other plan elements, it shall be the duty of the planning commission to consult with public officials and agencies, boards of health, school boards, public and private utility companies, civic, educational, professional and other organizations, and with citizens.

(2) During the preparation of the statement of goals and objectives, and at least fourteen (14) days prior to any public hearing on the adoption, amendment, or re-adoption of any element of the comprehensive plan, the planning commission shall give notice of the preparation of the statement or the hearing to the following public officials in each city and county adjacent to the planning unit:

(a) If the adjacent city or county is part of a planning unit, the notice shall be sent to the planning commission of that unit; or

(b) If the adjacent city or county is not part of a planning unit, the notice shall be sent to the chief executive officer of that city or county government.

(3) The notice required in subsection (2) of this section, and a copy of the proposed comprehensive plan element, shall also be given to the regional planning council for the area in which the planning unit is located. The council shall coordinate the review and comments of local governments and planning commissions serving planning units affected by the proposal and make recommendations designed to promote coordinated land use in the regional planning council's area of jurisdiction.

(4) Any planning commission which is adopting, amending, or re-adopting any element of the comprehensive plan may conduct a hearing to receive testimony from adjacent planning units, city or county governments, or the regional planning council of the affected area.

Section 3. KRS 100.197 is amended to read as follows:

(1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of goals and objectives. The various elements may be adopted as they are completed, or as a whole when all have been completed. The planning commission shall hold a public hearing and adopt the elements. The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical and physical advancements or changes. At least once every five (5) years, the commission shall amend or re-adopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or re-adoption shall occur only after a public hearing before the planning commission.

(2) The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then ***the*** [~~such~~] proposed amendments ***shall*** [~~must~~] be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, [~~then~~] it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(3) Within thirty (30) days after its adoption, amendment, or re-adoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties and planning units, following the procedures provided in subsection (2) of Section 2 of this Act.

Section 4. KRS 100.209 is amended to read as follows:

(1) When a city which has adopted zoning or other land use regulations pursuant to this chapter proposes to annex new territory, it may amend its comprehensive plan and official zoning map to incorporate and establish zoning or other land use regulations for the property proposed for annexation prior to adoption of the ordinance of annexation. If the city elects to follow this procedure, the planning commission shall hold a public hearing, after the adoption of the ordinance stating the city's intention to annex and prior to final action upon the ordinance of annexation, for the purpose of adopting the comprehensive plan amendment and making its recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the planning commission's recommendations prior to adoption of the ordinance of annexation and shall include in the ordinance of

annexation a map showing the zoning or other land use regulations which will be effective for the annexed property. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation, the newly annexed territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation until those restrictions are changed by zoning map amendments or other regulations in accordance with this chapter.

(2) When [~~a city annexes new territory or when~~] a city is created or when a city of the fifth or sixth class is reclassified to a city of the fourth class or higher in a county containing a city of the first class, and the intent is to regulate land ***use within the confines of the city, the process for adopting or amending the comprehensive plan and adopting zoning or other land use regulations shall be as provided for in this chapter. Until such actions have been taken, the properties within the city shall remain subject to the land use restrictions, if any, as applied prior to the creation or reclassification of the city*** [~~development, the process to adopt or amend a comprehensive plan, zoning ordinance, subdivision regulations, public improvements program or official map for the affected territory shall be as required by this chapter. The planning commission shall be permitted to hold public hearings on such proposed adoption or amendments as required by this chapter prior to final action on the annexation, creation or incorporation. The legislative body may take action adopting existing applicable goals and objectives and existing applicable regulations without a new public hearing, but a public hearing shall be required if any change to such goals and objectives or regulations are proposed. Until such actions have been taken, prior laws shall remain in effect and prior governing authority shall control~~].

Section 5. KRS 100.212 is amended to read as follows:

When in any planning unit except for a planning unit containing a city of the first class, a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation or ordinance:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission; and

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of ***the*** [~~said~~] owner. ***If the*** [~~In the event such~~] property is in condominium or cooperative forms of ownership, [~~then~~] the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(3) If the property the classification of which is proposed to be changed adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 6. KRS 100.3681 is amended to read as follows:

(1) Effective October 1, 1988, the county clerk of every county containing a planning unit which has enacted land use regulations pursuant to this chapter shall, upon receipt of a recording fee of ten dollars and fifty cents ($10.50), file and maintain among the official records of his office certificates of land use restriction completed according to this section and KRS 100.3682 to 100.3684. The certificates shall be in the form designated in KRS 100.3683; shall be completed and filed by the secretary of the planning commission,

board of adjustment, legislative body or fiscal court which finally adopts or imposes the land use restriction described in the certificate; and shall be filed within thirty (30) days of the date upon which the body takes final action to impose or adopt the restriction. The certificate shall set forth the name and address of the property owner; the address of the property; the name of the subdivision or development, if there is one; the name and address of the body which maintains the original records containing the restriction; and shall indicate the type of land use restriction adopted or imposed upon the subject property on or after October 1, 1988, including variances, conditional use permits, conditional zoning conditions, ***unrecorded preliminary*** subdivision plats and development plans; but not including zoning map amendments which impose no limitations or restrictions upon the use of the subject property other than those generally applicable to properties within the same zone ***and not including any recorded subdivision plat***. The county clerk shall index the certificates by property owner and, if applicable, name of subdivision or development. The county clerk shall maintain in his office a record of the name and address of the agency having custody of the official zoning map for each planning unit within the county. All zoning map amendments shall be reflected on the official zoning map within thirty (30) days of the date upon which final action approving ***the*** [~~such~~] amendments is taken by the planning unit.

(2) The planning unit shall collect the county clerk's filing fee for the certificate from the applicant at the time any proceeding is initiated which may result in the imposition, adoption, amendment or release of any land use restriction provided for in this chapter; and the planning unit may also charge the applicant a fee for the reasonable cost of completing and filing the certificate, not to exceed ten dollars and fifty cents ($10.50), in addition to any other applicable filing or administrative fee, to compensate the planning unit for completing and filing the certificate. The fees permitted by this Act shall be refunded to the applicant in the event no land use restriction is imposed or adopted as a result of the proceeding.

(3) When a restriction reflected on the certificate is amended, a new certificate shall be filed. In the case of such amendment or in the event the original restriction is released, the previous certificate shall be released by the secretary of the body which amended or released the restriction in the same manner as releases of encumbrances upon real estate.

(4) The failure to file, to file on time, or to complete the certificate properly or accurately shall not affect the validity or enforceability of any land use restriction or regulation. Any improper filing may be cured by a subsequent proper filing. Nothing herein shall affect the running of time for any appeal or other act for which a time limit is prescribed by this chapter.

Section 7. KRS 100.3682 is amended to read as follows:

If [~~In the event~~] a planning commission, fiscal court or legislative body originates a zoning map amendment for more than five (5) contiguous properties, upon approval of ***the*** [~~such~~] map amendment, there shall be filed a single certificate setting forth the required information for all the properties, and the originating body shall pay a single filing fee for such certificate. ***When*** [~~Whenever~~] a land use restriction is imposed upon two (2) or more properties or lots in the same proceeding, including but not limited to the approval of ***an unrecorded preliminary*** [~~a~~] subdivision plat or development plan for multiple lots, a single certificate shall be filed for all ***the*** [~~such~~] properties or lots collectively and a single filing fee shall be paid therefor.

Section 8. KRS 100.3683 is amended to read as follows:

The form for the certificate of land use restriction required by KRS 100.3681 shall be as follows:

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (s)

2. ADDRESS OF PROPERTY

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. TYPE OF RESTRICTION(s) (Check all that apply):

____ Zoning Map Amendment to ____Zone	____ Conditional Zoning Condition
____ Development Plan	____ Other ____________________ specify
____ *Unrecorded* Subdivision Plat	
____ Variance	
____ Conditional Use Permit	

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

____

____

____

____

____
Signature of Completing Official

____
Name and Title of Completing Official
(Type or print)

SECTION 9. A NEW SECTION OF KRS 147A.050 TO 147A.120 IS CREATED TO READ AS FOLLOWS:

(1) Except as set forth in subsection (8) of this section, each area development district shall establish a regional planning council to act in an advisory capacity on planning matters throughout the district.

(2) The regional planning council shall be composed of one (1) representative from each planning unit in the area development district. Each representative shall be appointed annually by the planning commission of each planning unit in the district. To be eligible for appointment to the council, a person shall be a member of the planning commission, or the planning commission's professional staff.

(3) At its first regular meeting in each year, the council shall elect from its membership a president and vice-president. The vice-president shall have the authority to act as president of the council during the absence or disability of the president.

(4) The council shall meet at the call of the president, but at least quarterly in each year.

(5) To insure compatible treatment of planned development throughout the district, the council may review comprehensive plans of planning units within the district for regional impact, may develop regional transportation, infrastructure and land use plans for the district, and may make recommendations regarding the regional impact of proposed comprehensive plans and plan amendments of planning units within the district.

(6) The area development district shall provide staff and technical support as requested by the council. Existing land use planning services and functions of the area development district shall be placed under the direction and control of the council.

(7) The council may offer training and education opportunities in the area of planning and zoning matters to planning commission members and staff in the district.

(8) The requirements of this section shall not apply to any area development district in which fifty percent (50%) or more of the population resides in cities or counties which participate in a regional planning authority, council of governments, or other agency which is authorized to perform regional planning functions as described in this section.

Section 10. KRS 100.131 is amended to read as follows:

An independent city planning unit or members of a joint planning unit composed only of two (2) or more cities may exercise extraterritorial jurisdiction ***over unincorporated territory which is not a part of a planning unit*** for the purposes of subdivision regulations***, zoning control over solid and hazardous waste landfills and incinerators,*** and, with the consent of the fiscal court, other regulations***,*** up to five (5) miles from all points upon the city's boundary, but not beyond the county boundary, nor within the boundary of any city not in ***the*** [~~such~~] planning unit, provided, however, that where the extraterritorial jurisdiction of planning units overlap, the boundary shall be midway between them. The jurisdiction of joint city-county and regional planning units shall be coterminous with their political boundaries. Nothing herein, however, shall prevent any planning unit from making planning studies of areas located outside its jurisdiction.

Section 11. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city of the fifth or sixth class so affected, within any county containing a city of the first class, an owner of every parcel of property adjoining the property to which the application applies and such other persons as the

local zoning ordinance, regulations or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 12. KRS 100.281 is amended to read as follows:

Subdivision regulations shall be based on the comprehensive plan, in those counties which have adopted a comprehensive plan, and all subdivision regulations shall contain:

(1) The procedure for the submission and approval of preliminary and final plat and the recordation of final plats. The commission may delegate to its secretary or any other officer or employe the power to approve plats in accordance with the commission's adopted requirements, but all plats, preliminary and final, shall be approved or disapproved within ninety (90) days;

(2) Specifications for the contents and the format of all subdivision plats;

(3) Requirements for the design of streets, blocks, lots, utilities, recreation areas, other facilities, hazardous areas, and areas subject to flooding. Such requirements may deal with all forms of land use including residential, commercial, industrial, and other uses. ***If the subdivision plat includes a proposal for any street to cross a jurisdictional line out of the planning unit, the commission shall require that notice of the proposal be given to the planning commission serving the planning unit into which the road will cross. If there is no planning unit for that area, the notice shall be given to the affected city or county government***;

(4) Specifications for the physical improvements of streets, utilities, and other facilities, and the extent to which they shall be installed or dedicated as conditions precedent to approval of any plat, including the provision of good and sufficient surety to insure proper completion of physical improvements; and

(5) Specifications for the extent to which land is to be used for public purposes shall be reserved as a condition precedent to approval by the commission of any subdivision plat. The planning commission may require a reservation, not to exceed two (2) years, for parks, open space, school and other public uses.

(6) The text may empower the planning commission to hear and finally decide applications for variances when a proposed development requires a subdivision and one (1) or more variances.

(7) In any regulation adopted pursuant to subsection (6) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustment pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247 and 100.251 in a circumstance provided for by subsection (6) of this section; and

(b) The text shall provide that the applicant for the subdivision at the time of the filing of the application for the subdivision may elect to have any variance for the same development to be heard and finally decided by the planning commission at the same public hearing set for the subdivision, or by the board of adjustment as otherwise provided for in this chapter.

Section 13. KRS 81A.420 is amended to read as follows:

(1) ***When*** [~~Whenever~~] a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. ***The*** [~~Such~~] ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare

it desirable to annex the unincorporated territory. [~~If zoning has been adopted by the annexing city, then following a public hearing and recommendations by the planning commission for the city, the ordinance shall include a map showing the zoning that will be effective for the annexed area.~~]

(2) If following the publication of the annexation ordinance pursuant to subsection (1) of this section and within sixty (60) days thereof, or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days of February 12, 1988, fifty percent (50%) of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after the petition is presented to the county clerk:

(a) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of ______________?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex;

(b) If less than fifty-five percent (55%) of those persons voting oppose annexation, the unincorporated territory shall become a part of the city; and

(c) If fifty-five percent (55%) or more of those persons voting oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose.

(3) In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received by the mayor as set out herein, or within sixty (60) days of the certification of election results in which less than fifty-five percent (55%) of those persons voting opposed annexation, the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. ***If the city has elected to establish the zoning for the new territory prior to the completion of the annexation pursuant to KRS 100.209, the ordinance shall include a map showing the zoning.*** Upon the enactment of this ordinance, the territory shall become part of the city for all purposes.

Section 14. KRS 82.400 is amended to read as follows:

(1) If any person desires to offer for dedication by recorded plat any public way or easement within the city limits, he shall file with the city legislative body a map or plat of the territory bounded, intersected or immediately adjacent to the proposed public way or easement, showing the proposed name, nature and dimensions of the public way or easement offered for dedication. If the city legislative body decides the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) Except as provided for by ordinance in a city of the first class or in a county containing a city of the first class, subdivision regulations which have been adopted as provided in KRS Chapter 100, and where streets or public ways as dedicated on the final subdivision plat have been constructed, inspected, and approved in accordance with the subdivision regulations, then the procedure for filing the map or plat with the city legislative body as required in subsection (1) of this section shall be waived, and the dedicated street or public way shall automatically be deemed beneficial to the public interest ***and shall be, by operation of law, automatically accepted for***[~~, subject to acceptance and~~] maintenance by the city forty-five (45) days after inspection and final approval, and shall be a public way for all purposes***, KRS Chapter 83A, regarding a city's adoption of ordinances notwithstanding.***

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city as a public way or easement, subject to acceptance by the city. The city may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city for all purposes. The lack of an actual dedication to the city, or of a record title on the part of the city, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years. Provided, however, that no property of a carrier by rail, as defined in KRS 276.010(3), shall be presumed to be dedicated as a public way or easement under this section or any other rule of law in force in this state unless the carrier consents to said dedication in writing.

Section 15. KRS 100.277 is amended to read as follows:

(1) All subdivision of land shall receive commission approval.

(2) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(3) No person owning land composing a subdivision, or his agent, shall transfer or sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer or sale shall be void and shall not be subject to be recorded unless the subdivision plat subsequently receives final approval of the planning commission, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have. Provided, however, any person, or his agent, may agree to sell any lot or parcel of land located within a subdivision by reference to an unapproved or unrecorded plat or by reference to a metes and bounds description of such lot and any such executory contract of sale or option to purchase may be recorded and shall be valid and enforceable so long as the subdivision of land contemplated therein is lawful and the subdivision plat subsequently receives final approval of the planning commission.

(4) Any street or other public ground which has been dedicated shall [~~not~~] be accepted for maintenance by the legislative body ***after*** [~~until~~] it has received final plat approval by the planning commission. ***Any street that has been built in accordance with specific standards set forth in subdivision regulations or by ordinance shall be, by operation of law, automatically accepted for maintenance by a legislative body forty-five (45) days after inspection and final approval.***

(5) Any instrument of transfer, sale or contract that would otherwise have been void under this section and under any of its subsections previously, is deemed not to have been void, but merely not subject to be recorded unless the subdivision plat subsequently receives final approval of the planning commission. This subsection shall not apply to instruments of transactions affecting property in counties containing cities of the first class or in urban counties created pursuant to KRS Chapter 67A.

SB 6, AN ACT relating to publication notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.455 is amended to read as follows:

(1) There is established within the Department of Local Government a local government economic assistance program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following:

(a) Public safety, including law enforcement, fire protection, ambulance service and other related services;

(b) Environmental protection, including sewage disposal, sanitation, solid waste and other related programs;

(c) Public transportation, including mass transit systems, streets and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, aged, and handicapped;

(h) Financial administration and governmental management programs;

(i) Industrial and economic development; and

(j) Vocational education.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department of Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department of Local Government shall assure that ***a*** public ***hearing is*** [~~hearings equivalent to those required for the expenditure of federal general revenue-sharing funds are~~] held on the expenditure of funds received under KRS 42.450 to 42.495. ***Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.*** The department shall [~~also~~] submit an annual report to the governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department of Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of such highways, roads and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads and streets shall file with the Transportation Cabinet such information and at such intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The Revenue Cabinet shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; in the event the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 2. KRS 174.100 is amended to read as follows:

Before any unit of local government expends state derived tax revenues on a state rural, secondary, county road or municipal highway, road, street, or county or municipal bridge, it shall hold a hearing in accordance with the provisions of this section to take the sense of the public with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

(1) Not less than forty-five (45) days before the contemplated date of expenditure of state derived tax revenues on a road or bridge by a unit of local government, that unit of government shall ***hold*** [~~give notice in the manner required by KRS Chapter 424 of~~] a public hearing for the purpose of taking the sense of the public with regard to road and bridge matters within the unit of local government. ***Notice of*** the hearing shall be ***given*** [~~held~~] not less than ***seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing*** [~~thirty (30) days after the first publication of the notice~~] and before beginning work on any project covered by this section.

(2) At the hearing, any person may speak with regard to any proposed project, any project which he feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(3) The unit of local government holding the hearing shall not be bound by the testimony heard at the hearing but shall give due consideration to it.

(4) No unit of local government shall begin construction on a road or bridge project wherein state derived tax revenues are involved until the hearing as provided herein has been held.

(5) This section shall not be construed [~~as~~] to require a separate hearing for each project. A single hearing encompassing the entire road and bridge program, provided all projects subsequently undertaken have been identified at the hearing, shall meet the requirements of this section.

(6) The provisions of this section shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(7) The provisions of this section shall not apply to projects which are under construction as of the effective date of this section unless construction is suspended after the effective date of this section and the unit of local government desires to reactivate the project.

SB 7, AN ACT relating to city clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.085 is amended to read as follows:

(1) Each city, except a city of the first class, shall establish the office of city clerk.

(2) The office of city clerk may be combined with any other nonelected city office by inclusion of the title and duties of such office in the ordinance establishing the office of city clerk.

(3) The duties and responsibilities of the clerk shall include, but not be limited to, the following:

(a) Maintenance and safekeeping of the permanent records of the city;

(b) Performance of the duties required of the "official custodian" or "custodian" pursuant to KRS 61.870 to 61.882;

(c) Possession of the seal of the city if used; [~~and~~]

(d) ***No later than January 31st of each year, mail to the Department of Local Government, a list containing current city information including, but not limited to, the following:***

1. The correct name of the mayor, legislative body members, and the following appointed officials who are serving as of January 1 of each year:

a. City clerk;

b. City treasurer;

c. City manager;

d. City attorney;

e. Finance director;

f. Police chief;

g. Fire chief; and

h. Public works director;

2. The correct name of the city, mailing address for city hall, and telephone number of city hall; and

3. The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8:00 a.m. to 4:30 p.m.;

(e) Performance of all ***other*** duties and responsibilities required of the city clerk by statute or ordinance***; and***

(f) The Department of Local Government shall immediately forward one (1) copy of the information received from each city clerk to the Legislative Research Commission.

Section 2. KRS 83.580 is amended to read as follows:

(1) The mayor shall:

(a) Cause the ordinances of the city and the laws of the state to be executed and enforced;

(b) Communicate to the board of aldermen at least once a year a statement of the finances and general condition of the affairs of the city, and such information in relation thereto as the board of aldermen requires;

(c) Recommend, by written message to the board of aldermen, ***the*** [~~such~~] measures [~~as~~] he deems expedient;

(d) Fill, with the consent of the board of aldermen, all vacancies in executive and ministerial offices and the filling of which is not otherwise provided for;

(e) Exercise a general supervision over all the executive and ministerial officers of the city, and see that their official duties are honestly performed***; and***[~~.~~]

(f) No later than January 31 of each year, mail to the Department of Local Government a list containing current city information including, but not limited to the following:

1. The correct name of the mayor, members of the board of aldermen, and the following appointed officials who are serving as of January 1 of each year:

a. Clerk of the board of aldermen;

b. City treasurer;

c. City attorney;

d. Finance director;

e. Police chief;

f. Fire chief; and

g. Public works director;

2. The correct name of the city, mailing address for city hall, and the telephone number of city hall; and

3. The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8:00 a.m. to 4:30 p.m.

(2) The mayor may:

(a) Remove from office, by a written order, any officer appointed by him, unless otherwise provided by law;

(b) Appoint his own staff, and remove them at pleasure;

(c) Require from any executive or ministerial officer of the city or joint agency of the city a statement in writing concerning the discharge of his duties; ***and***

(d) Exercise the same power to administer oaths that justices of the peace and other judicial officers of the state have.

(3) The Department of Local Government shall immediately forward one (1) copy of the information received from the mayor to the Legislative Research Commission.

SB 8, AN ACT relating to city audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.040 is amended to read as follows:

(1) Each city ***of the first through fifth class***[~~, except a city of the sixth class, and except as provided in KRS 91A.041,~~] shall[~~, as soon as practicable and in no event later than two hundred seventy (270) days~~] after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. ***The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, pursuant to paragraph (4)(e) of this section, each city shall forward three (3) copies of the audit report to the Kentucky Department of Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.***

(2) ***Except as provided in subsection (3) of this section,*** each city of the sixth class[~~, except cities having staggered terms under the provisions of KRS 83A.110,~~] shall ***after the close of each odd-numbered fiscal year*** [~~upon the expiration of the terms of office of its legislative members~~], cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. ***The*** [~~Those cities of the sixth~~

~~class having staggered terms under the provisions of KRS 88A.110 shall, upon the expiration of the terms of office of legislative body members elected in odd numbered years, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. Such~~] audits shall be completed ***by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, pursuant to paragraph (4)(e) of this section, each sixth class city shall forward three (3) copies of the audit report to the Kentucky Department of Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975. After the close of each even-numbered fiscal year, each sixth class city shall prepare a financial statement in accordance with Section 3 of this Act and immediately forward one (1) copy to the Kentucky Department of Local Government. The department shall be responsible for forwarding one (1) copy of the financial statement to the Legislative Research Commission*** [~~as soon as practicable and in no event later than two hundred seventy (270) days from the expiration of the terms of office of the aforementioned legislative body members~~].

(3) ***Any city of the sixth class, which for any fiscal year receives and expends, from all sources and for all purposes, less than twenty-five thousand dollars ($25,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city shall annually prepare a financial statement in accordance with Section 3 of this Act and immediately forward one (1) copy to the Kentucky Department of Local Government for information purposes. The department shall be responsible for forwarding one (1) copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.***

(4) Each city ***required by this section to conduct an annual or biannual audit*** shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The auditor be employed to examine the general purpose financial statements of all governmental proprietary and fiduciary funds of the city;

(b) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended.

(c)[~~(b)~~] All audit information be prepared in accordance with generally accepted governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(d)[~~(c)~~] The auditor prepare a typewritten or printed report embodying the general purpose financial statements and his opinion and statements relating thereto;

(e)[~~(d)~~] The auditor express an overall opinion as to whether the general purpose financial statements present fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(f)[~~(e)~~] The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and

(g)[~~(f)~~] Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the auditor of public accounts upon request of the city or the auditor of public accounts, and the auditor of public accounts shall have the right to review the certified public accountant's work papers upon request.

[~~(4) Within ten (10) days of the completion of an audit, and its presentation to the city legislative body pursuant to paragraph (3)(e) of this section, each city shall forward three (3) copies of the audit report to the finance and administration cabinet for information purposes. The cabinet shall forward one (1) copy of the audit to the legislative research commission to be used for the purposes of KRS 6.955 to 6.975.~~]

(5) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the legislative research commission necessary to carry out the purposes of KRS 6.955 to 6.975.

(6) Upon completion of an audit, each city may elect to publish the auditor's report in accordance with subsection (7) of this section, or publish a financial statement in accordance with subsection (8) of this section. Notwithstanding the election of subsection (7) or (8) of this section, the city shall within ninety (90) days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight (8) column inches that the statement required by KRS 424.220

has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided such statement.

(7) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish ***the auditor's cover letter to the city council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds, and the combined statement of changes in financial position for all proprietary fund types and similar trust funds*** [~~such report, together with the general purpose financial statements of the city, which shall include the combined balance sheets, combined statements of revenues, expenditures or expenses, and changes in fund balances, retained earnings, or financial position for each fund of the city, and notes to such general purpose financial statements,~~] in accordance with KRS Chapter 424. ***The advertisement shall contain a statement that a copy of the complete auditor's report, including financial statements and supplemental information, are on file at city hall and are available for public inspection during normal business hours. The advertisement shall also contain a statement that any citizen may obtain from city hall a copy of the complete auditor's report, including financial statements and supplemental information, for his personal use. The statement shall notify citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty five cents ($0.25) per page.*** In addition, the advertisement shall contain a statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of such statement.

(8) If the city, other than a city of the first or second class or urban-county government, elects to publish the financial statement prepared in accordance with KRS 424.220 in lieu of publishing the auditor's report, it shall, within sixty (60) days after the completion of the audit, publish such statement in accordance with KRS Chapter 424.

(9) Any city of the fifth or sixth class may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.

(10) Any person who violates any provision of this section shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once, in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

Section 2. KRS 424.190 is amended to read as follows:

(1) In any case where a statute now gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and in any case where a statute now provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter, except as provided in subsection (2) of this section.

(2) Any city of the fifth or sixth class may, when the cost of the newspaper publication exceeds the cost of postage, supplies and reproduction for the alternative method of publication, in lieu of newspaper publication of advertisement, substitute delivery of a copy of the advertisement by first class mail to each residence within the publication area. ***Any city electing to use the alternative publication methods authorized by this section shall remain responsible for forwarding either three (3) copies of its audit report or one (1) copy of its financial statement, whichever is applicable, to the Kentucky Department of Local Government pursuant to Sections 1 and 3 of this Act.***

Section 3. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a city, county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. ***Pursuant to subsections (2) and (3) of Section 1 of this Act, each city of the sixth class shall prepare an itemized,***

sworn statement of the funds collected, received, held or disbursed by the city which complies with the provisions of this section.

(2) The statement shall show*:* [~~in the aggregate by source,~~]

(a) The ***total*** amount of funds collected and received ***during the fiscal year from each individual source; and*** [~~, and in the aggregate by payee,~~]

(b) The ***total amount of funds*** [~~amounts~~] disbursed ***during the fiscal year to each individual payee and the purpose for which the funds were expended.***[~~, or the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that~~]

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills ***shall*** [~~need to~~] be shown.[~~, and except that~~] The amount of salaries paid to all nonelected county employees shall be shown as lump sum expenditures by category, including, but not limited to, road department, jails, solid waste, public safety, and administrative personnel.[~~, and except that~~]

(4) The amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers. [~~and~~] The amount of salaries paid to all other employees of the board shall be shown as lump sum expenditures by category, including, but not limited to, administrative, maintenance, transportation[~~,~~] and food service.[~~; however,~~] The local board of education and the fiscal court ***shall*** [~~must~~] have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.

(5) The officer shall procure and include in or attach to the ***financial*** statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) The officer shall, except in a city electing to publish its audit in lieu of the financial statement pursuant to KRS 91A.040(6), within sixty (60) days after the close of the fiscal year[~~,~~] cause the ***financial*** statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county ***and***[~~. Within thirty (30) days after publication, the officer shall file~~] with the Auditor of Public Accounts [~~a copy of the newspaper containing the statement~~]. ***Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department of Local Government.***

(7)[~~(2)~~] In lieu of the publication requirements of subsection ***(6)*** [~~(1)~~] of this section, the appropriate officer of any municipally owned electric, gas or water system may elect to satisfy the requirements of subsection ***(6)*** [~~(1)~~] of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district as the case may be, the statement of revenue and expenditures from such audit, together with the statement that the audit report is available for inspection at the offices of the utility; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(8)[~~(3)~~] In lieu of the publication requirements of subsection ***(6)*** [~~(1)~~] of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection ***(6)*** [~~(1)~~] of this section by publishing an audit, prepared pursuant to KRS 43.070 or 64.810, in the same manner that city audits are published pursuant to KRS 91A.040(7).

Section 4. KRS 42.460 is amended to read as follows:

Except as provided in subsection (4)(b) of Section 1 of this Act any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report ***shall*** [~~will~~] include a certification that ***the*** [~~said~~] funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the department for local government within eighteen (18) months after the end of the fiscal year.

Section 5. KRS 91A.041, Audit exemptions, is hereby repealed.

SB 18, AN ACT relating to small claims courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.250 is amended to read as follows:

(1) No party shall file more than twenty-five (25) claims in any one calendar year in the small claims division of any district court in the Commonwealth. Any business engaged in trade or commerce shall be entitled to the maximum number of claims allowed under this section for each established location in the district that has been engaged in trade or commerce for at least six (6) months.

(2) Any party who files a claim in the division shall sign an affidavit with the clerk at the time of filing the claim stating that he has not brought more than the maximum number of claims allowed under subsection (1) of this section.

(3) If any party files a claim in excess of the maximum number of claims allowed, that claim shall be dismissed without prejudice at the cost of the plaintiff.

(4) The limitation on the number of claims and the other requirements of this section shall not apply to claims brought by city, county or urban-county governments.

SB 213, AN ACT relating to short-term borrowing by governmental agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Governmental agency" means any county, urban-county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(2) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to act on behalf of a governmental agency.

(3) "Legislation" means an order, resolution or ordinance of the governing body.

(4) "Notes" means notes authorized by this Act which may be secured by taxes or revenue or taxes and revenue.

(5) "Revenue" means all funds received by a governmental agency which are not taxes, including, but not limited to, excises, transfers, service fees, assessments and occupational license fees.

(6) "State local finance officer" means the officer designated in KRS 66.045.

(7) "Taxes" means taxes properly levied upon real or personal property.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A governmental agency shall have power and authority, by legislation duly adopted, to borrow moneys from time to time in any fiscal year in anticipation of the receipt of current taxes or revenues, or both, to evidence the obligation by notes, appropriately designated, and to authorize, issue and sell notes in the manner, and subject to the limitations provided in this Act. Notes shall be payable only from moneys appropriated by the governing body of the governmental agency. The power to borrow from time to time shall include, but not be limited to, the power to make a single authorization and issue and sell portions of the amount of authorized notes whenever desired during the fiscal year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No governmental agency shall authorize or issue notes in any one (1) fiscal year which in the aggregate shall exceed seventy-five percent (75%) of:

(1) In the case of notes payable solely from and secured by a pledge of taxes, the amount of taxes levied and to be collected for the current fiscal year;

(2) In the case of notes payable solely from and secured by a pledge of revenues, the amount of revenues anticipated to be collected during the current fiscal year; and

(3) In the case of notes payable from and secured by a pledge of taxes and revenues, the sum of taxes and revenues anticipated to be collected during the current fiscal year.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes payable shall mature on a date determined by the governing body which shall be no later than the last day of the fiscal year in which the notes are issued. Interest on notes from the date thereof shall be payable at their maturity or payable in installments at earlier dates. Interest on the notes may be at a rate, rates or method of determining rates the governing body of the governmental agency unit may determine.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes shall be dated as of a date not more than thirty (30) days after the effective date of the legislation authorizing the notes. Notes shall be issued in the denominations, shall be subject to the rights of prior redemption, shall have the privileges of exchange and registration, shall be dated, shall be in registered or bearer form with or without coupons, and shall be payable at the place or places, all as the governing body of the governmental agency may determine.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes issued in a single fiscal year, shall be equally and ratably secured by the pledge of, security interest in, and a lien and charge on, the taxes or revenues, or both, of the governmental agency specified in the authorizing legislation which are in the process of collection and are to be received during the period when the notes will be outstanding. The pledge, lien and charge shall be fully perfected as against the governmental agency, all creditors, and all third parties in accordance with the terms of the legislation from and after the delivery of the notes until the notes are paid in full. The legislation may establish one (1) or more sinking funds or note retirement funds and provide for periodic or other deposits therein, and may contain such covenants or other provisions as the governmental agency shall determine. In every case, the taxes and revenues pledged shall be those taxes and revenues which are the subject of appropriation for the current fiscal year. The holders or owners of notes may be given the right to have the notes continually secured by the faith and credit of the governmental agency, and each note shall bear on its face a statement to that effect and to the effect that the right of payment on the note is limited to the taxes or revenues pledged under the legislation of the governmental agency authorizing the notes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The holder of the notes may enforce a pledge of, security interest in and lien and charge on, the taxes or revenues or both, of the governmental agency against all state and local public officials in possession of any of the taxes or revenues at any time which may be collected directly from the official upon notice by the holder for application to the payment of a note as and when due or for deposit in the applicable sinking fund or note retirement fund at the times and in the amounts specified in the note. Any state or local public official in possession of any taxes or revenues which are pledged shall make payment, against receipt therefor, directly to the holder of the notes and shall be discharged from any further liability or responsibility for taxes or revenues. If the payment is a payment in full of the notes, it shall be made against surrender of the notes to the state or local public official for delivery to the governmental agency in the case of payment in full, otherwise it shall be made against production of the notes for notation thereon of the amount of the payment.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Prior to each authorization of notes, authorized officers of the governmental agency shall make an estimate of the taxes or revenues, or both, whichever is to secure the payment of the notes, which are estimated to be received during the period when the notes will be outstanding. The estimate shall take due account of the past and anticipated collection experience of the governmental agency and of current economic conditions. The estimate shall be certified by the officer as of a date not more than thirty (30) days prior to the effective date of the legislation authorizing the notes.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes may be sold at public, private or invited sale as the governing body of the governmental agency may determine. Any public sale shall be advertised and conducted in the manner and subject to the conditions provided for a public sale of bonds pursuant to KRS Chapter 424. The governing body of the governmental agency shall award the notes by legislation to specified purchasers at a specified price.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Without first notifying the state local finance officer in writing, no note shall be valid or obligatory. Notification shall contain the terms of the notes, including the interest rates or method of determining rates,

the approximate date of issue, the maturity dates, the trustee or paying agent, if any, and shall include a copy of the certificate of the governmental agency as to taxes or revenues to be collected during the term of the notes. No approval of the state local finance officer shall be required.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the Short-term Borrowing Act.

SB 214, AN ACT relating to leasing property by local governmental agencies.

Whereas, counties, municipalities, taxing districts, special districts, school districts and other political subdivisions of the Commonwealth of Kentucky have entered into lease agreements with respect to the acquisition of real and personal property to be used for public purposes; and

Whereas, this General Assembly desires to clarify and ratify leasing procedures for governmental agencies in the Commonwealth and to establish a definitive form and structure for leasing transactions entered into by governmental agencies in the future;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Acquire" means to purchase, install, equip or improve personal property or real property pursuant to this Act.

(2) "City" means any municipal corporation of any class incorporated in the Commonwealth.

(3) "Construct" means building reconstruction, replacement, extension, repairing, betterment, development, equipment, embellishment or improvement.

(4) "County" means a political subdivision of the Commonwealth created and established by the laws of the Commonwealth.

(5) "Governmental agency" means any county, urban-county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(6) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to acquire property for each respective governmental agency.

(7) "Lease" means a lease, lease purchase, lease with option to purchase, installment sale agreement or other similar agreement entered into pursuant to this Act.

(8) "Lease price" means the total of amounts designated as payments of principal under a lease.

(9) "Net interest cost" means the total of all interest to accrue and fall due through the last payment due date on a lease, plus any discount or minus any premium included in the lease price.

(10) "Person" means any individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(11) "Personal property" means personal property, appliances, equipment or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of a governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency, but shall not include real property.

(12) "Real property" means land, buildings, fixtures and interests in real property, deemed by the governing body of the governmental agency to be necessary, useful or appropriate to one (1) or more purposes of the governmental agency.

(13) "Revenue" means all funds received by a governmental agency which are not taxes, including but not limited to excises, transfers, service fees, assessments and occupational license fees.

(14) "School district" means any county school district or independent school district organized and existing pursuant to the laws of the Commonwealth.

(15) "Special district" means any agency, authority, or political subdivision of the Commonwealth which exercises less than statewide jurisdiction and which is organized for the purpose of performing

governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the Commonwealth except a city, county or school district.

(16) "State local finance officer" means the officer designated in KRS 66.045.

(17) "Taxes" means taxes properly levied upon real or personal property.

(18) "Taxing district" means any taxing district created under KRS 65.180 to 65.190.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The governing body of a governmental agency may approve by ordinance, order or resolution and may execute, perform, and make payments under a lease with any person, to acquire or construct personal property or real property for any public purpose. The lease may be on the terms and conditions that are deemed appropriate by the governing body. Leases payable in whole or in part from taxes shall be obligations of the governmental agency for a period that does not exceed one (1) year. Leases which are payable exclusively from or are secured solely by revenues, may exceed a one (1) year period. Leases may contain an option or options to renew or extend the term and may be made payable from a pledge of all or any part of any revenues, funds, or taxes or any combination thereof, which are available to the governmental agency for its public purposes.

(2) A governmental agency may pledge taxes as security for payment under leases which provide that the governmental agency may terminate its obligations under the lease at the expiration of each year during the term of the lease. A governmental agency may pledge any revenue other than taxes as security for payment under a lease regardless of any right to terminate. The lease may provide for the payment of interest on the unpaid amount of the lease price at a rate, rates or method of determining rates and may contain prepayment provisions, termination penalties, and other provisions determined by the governing body of the governmental agency.

(3) Prior to entering into a lease for the financing of the purchase of any personal property or real property, a governmental agency shall comply with other provisions of law regarding the purchase of property for public purposes. The lease shall be deemed an instrument for financing and provisions of law regarding purchases of property for public use shall not apply to the lease itself. Leases may be entered into on a publicly advertised competitive basis or on a private negotiated basis without advertisement.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) Without first notifying the state local finance officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars ($100,000). The notification shall contain the terms of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and such other information the state local finance officer may require. The state local finance officer may prescribe a form for providing the information required by this paragraph.

(b) In addition to the notification required by this subsection, no county, except an urban county, shall enter into a lease if the lease price exceeds five hundred thousand dollars ($500,000) without first receiving the approval of the lease from the state local finance officer. The state local finance officer may prescribe procedures and adopt regulations for granting approval of the leases.

(c) In addition to the notification required by this subsection, no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars ($100,000) without first receiving the approval of the lease from the Superintendent of Public Instruction. The Superintendent of Public Instruction shall recommend administrative regulations to the state Board of Education for implementation of this Act.

(2) The state local finance officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A lease for real property may have any term, including renewals, not to exceed forty (40) years. A lease for personal property may have any term, including renewals, not to exceed the useful life of the personal property financed, determined in accordance with generally accepted accounting principles.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A governmental agency shall be considered the equitable owner of any personal or real property leased under this Act where the property is used solely for public purposes, unless the governmental agency is vested with legal ownership pursuant to Section 7 of this Act. Personal or real property which is equitably or legally owned by a governmental agency shall be exempt from all taxation by the Commonwealth and

any of its political subdivisions. Leases and interests therein and payments received by lessors or their assigns which are identified as interest shall be exempt from taxation by the Commonwealth and any of its political subdivisions to the same extent as bonds or notes issued by the Commonwealth and any governmental agency.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A lease or any interest therein entered into pursuant to this Act shall be a legal and authorized investment for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A lease may provide that legal title to the real property or personal property subject to the lease may be vested in the governmental agency or in the person acting as lessor under the lease and may be transferred from one to the other under terms provided in the lease.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This Act shall be authority for entering into leases and the performance of the other acts and procedures authorized by this Act, without reference to any other laws, or any restrictions or limitations contained therein, except as specifically provided in this Act. If leases are entered into under this Act, to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control, except that any governmental agency may use the provisions of any other law, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act. This Act shall be liberally construed to effectuate its purpose.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the Governmental Leasing Act.

The Committee on Transportation reported **HB 467** with Committee Amendments attached thereto, **HB 533** with Committee Amendment attached thereto, **HJR 57**, **HJR 81**, **HJR 120** and **SJR 36** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 467, AN ACT relating to motor vehicle ad valorem taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the Revenue Cabinet for collecting state ad valorem taxes on motor vehicles a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer for collecting county and special district ad valorem taxes on motor vehicles a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner of record of each motor vehicle no later than one month prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner of record as of January 1 of that year ***and the purchase for payment of their pro rata shares of the ad valorem taxes pursuant to KRS 134.810(4).***

(c) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Non-receipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 2. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency.[~~; provided, however, that~~] No penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on ***the*** [~~said~~] motor vehicle ***for as many twelfths of the annual amount as there are expired months in the calendar year. The person purchasing the vehicle shall be responsible for the balance of the ad valorem taxes***[~~, except as hereinafter provided~~].

(5) ***If*** [~~In the event that~~] an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration ***shall be*** [~~are~~] due and payable on or before the last day of the first birth month following ***the*** [~~said~~] assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) All motor vehicles currently titled and registered in this state held on an assignment by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(11) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. No lien for delinquent ad valorem taxes shall attach to any motor vehicle transferred while the taxes are due on that vehicle.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS data base. For the filing and release of each [~~such~~] lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

(10) Any person transferring a motor vehicle of which he was the owner as of January 1 of that same year shall be responsible for ad valorem taxes due which shall be equal to as many twelfths of the annual amount as there are expired months in that calendar year. A person purchasing a vehicle from its January 1 owner shall, upon purchase, be responsible for ad valorem tax due for the remainder of the calendar year.

(11) This section shall not be construed as requiring the cabinet to submit a refund on ad valorem taxes on motor vehicles for which registration renewal has occurred and appropriate taxes paid.

The Committee Amendment No. 1 to **HB 467** is as follows:

Amend printed copy of **HB 467** on page 3, line 20, after the word "***vehicle***" by inserting the following language: "***, if other than a licensed motor vehicle dealer who places the vehicle on dealer assignment,***"

On page 3, line 21, after the "." by inserting the following language: "***The term "January 1 owner" as used herein shall not be construed to impose liability for ad valorem taxes upon a licensed motor vehicle dealer for vehicles held for sale on January 1, of any year.***"

On page 5, line 17, after the word "***owner***" by inserting the following language: "***, if other than licensed motor vehicle dealer who places the vehicle on dealer assignment,***"

On page 5, line 19, after the "." by inserting the following language: "***The term "January 1 owner" as used herein shall not be construed to impose liability for ad valorem taxes upon a licensed motor vehicle dealer for vehicles held for sale on January 1, of any year.***"

The Committee Amendment No. 2 to **HB 467** is as follows:

Amend printed copy of **HB 467** on page 3, line 21, after the "." by inserting the following language: "***The prorating of ad valorem taxes shall occur only in the event that the motor vehicle is traded or sold within the Commonwealth. Any person who trades or transfers a vehicle to an out-of-state resident or dealer shall be liable for the entire amount of the ad valorem taxes.***"

On page 5, line 12, after the word "***vehicle***" by inserting the following language: "***within the Commonwealth***".

HB 533, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Motor Carrier Advisory and Development Board is created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by Section 2 of this Act.

(2) The board shall consist of the secretary of the Transportation Cabinet, the secretary of the Revenue Cabinet, the secretary of the Economic Development Cabinet, the Speaker of the House, the President Pro Tem of the Senate, or their respective designated representatives and twelve (12) representatives of the motor carrier industry engaged in operations in the Commonwealth in the transportation of persons or property.

(3) On July 15, 1990, the Governor shall appoint the motor carrier industry representative to the board. Members shall be appointed by the Governor for three (3) years, except that initial appointments to the board shall be staggered in the following manner:

(a) Four (4) members shall serve for a period of one (1) year;

(b) Four (4) members shall serve for a period of two (2) years; and

(c) Four (4) members shall serve for a period of three (3) years.

(4) Motor carrier industry representatives of the board shall qualify for membership by taking the constitutional oath of office and shall be provided with certificates of appointments. The members of the board shall serve without per diem or compensation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) The duties of the board shall be to advise the executive and legislative branches of government of the Commonwealth on issues regarding industrial expansion, promotion of motor carrier development, and improvement of motor carrier taxation and regulation methods. The board may request information and data from agencies of state government and may conduct studies to assist in the performance of its functions and duties.

(2) The board shall meet no less than quarterly during each calendar year, but may meet more frequently, if required. Meetings may be held at any place within the Commonwealth as determined by the board. The Transportation Cabinet shall provide meeting facilities and administrative assistance and support to the board and the expense of operations of the board shall be paid from the budget of the Department of Vehicle Regulation.

(3) The board shall elect its chairman and vice-chairman from the twelve (12) appointed members of the board. A majority of the membership of the board shall constitute a quorum for the conduct of business.

(4) The meetings of the board shall be public and the board shall file annual reports of its activities, findings, and recommendations with the office of the Secretary of State and the Legislative Research Commission. The reports shall be a matter of public record.

The Committee Amendment No. 1 to **HB 533** is as follows:

Amend printed copy of **HB 533** on page 1, lines 3 and 4, after the word "***Advisory***" by inserting the word "***Committee***" and by deleting the words "***and Development Board***".

On page 1, line 7, after the first "***The***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 1, line 12, after the word "***and***" by deleting the words "***twelve (12)***" and inserting the words "***nine (9)***" in lieu thereof.

On page 1, line 16, after the word "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 1, line 20, after the "***(a)***" by deleting the words "***Four (4)***" and inserting the words "***Three (3)***" in lieu thereof.

On page 2, line 1, after the "***(b)***" by deleting the words "***Four (4)***" and inserting the words "***Three (3)***" in lieu thereof.

On page 2, line 3, after the "***(c)***" by deleting the words "***Four (4)***" and inserting the words "***Three (3)***" in lieu thereof.

On page 2, line 6, by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 2, line 8, after the second "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 2, line 12, after the second "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 2, line 16, after the word "***The***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 2, line 20, after the word "***The***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 2, line 23, after the first "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 2, line 25, after the word "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 2, line 26, after the second "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 3, lines 2, 3, and 4, by deleting the following: "***The board shall elect its chairman and vice-chairman from the twelve (12) appointed members of the board***" and by inserting the following language in lieu thereof: "***The chairman of the committee shall be the secretary of the Transportation Cabinet, or his designee. The vice-chairman shall be elected from the nine appointed members of the committee***".

On page 3, line 4, after the third "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

On page 3, line 6, after the second "***the***" by deleting the word "***board***" and inserting the word "***committee***" in lieu thereof.

HJR 57, A JOINT RESOLUTION directing the Secretary of the Transportation Cabinet to designate the portion of U.S. Highway 119 from Pineville to Whitesburg as the "Kingdom Come Parkway."

WHEREAS, Harlan, Bell and Letcher counties have been blessed by Almighty God with abundant, beautiful mountain scenery and natural wonders; and

WHEREAS, U.S. 119, which traverses the mountains and valleys of these three counties, affords travelers an opportunity to view and enjoy the most magnificent scenery within the Commonwealth; and

WHEREAS, Harlan County is the home of Kingdom Come State Park; and

WHEREAS, Harlan and Letcher Counties are home of the Little Shepherd Trail; and

WHEREAS, this region has provided the setting for the novels of John Fox, Jr., among whose works is "The Little Shepherd of Kingdom Come;" and

WHEREAS, the southern terminus of U.S. 119 intersects with U.S. 25E along a section of the Cumberland Gap Parkway; and

WHEREAS, a special designation for U.S. 119 would expand the concept of promoting historic and scenic routes in Eastern Kentucky and offer the potential for regional marketing and tourism promotional opportunities;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Kentucky Transportation Cabinet be directed to designate that portion of United States Highway 119 from Pineville to Whitesburg "The Kingdom Come Parkway."

Section 2. That the Secretary of Transportation be directed to set aside the necessary funds to ensure that appropriate signs designating this route be posted between Pineville and Whitesburg.

Section 3. That a copy of this resolution be transmitted to the Governor of the Commonwealth of Kentucky, the secretary of the Kentucky Transportation Cabinet and the Fiscal Courts of Harlan, Bell and Letcher Counties.

HJR 81, A JOINT RESOLUTION directing the Secretary of Transportation to name the bridge on KY 2629 after Reginald F. Kirby.

WHEREAS, Mr. Reginald F. Kirby spent all of his seventy-eight years in the Warren County community of Alvaton, except for the period of time he served in the United States Armed Forces and, while he pursued his education at Ogden College; and

WHEREAS, after completing his formal education, Mr. Kirby was engaged as a building contractor and engineer who was instrumental in many construction projects in South Central Kentucky; and

WHEREAS, one of Mr. Kirby's pet projects became the improvement of US 231 in Warren County which he persisted in proclaiming as an economic development and highway safety need for some twenty years before it was actually completed; and

WHEREAS, in addition to his dedication to the highway construction and safety needs of the region, Mr. Kirby was active in civic organizations and served as a deacon and trustee of the First Baptist Church in Bowling Green; and

WHEREAS, at the time of his death, Mr. Kirby was chairman of the Building Committee at the First Baptist Church which is about to embark on a $3,000,000 renovation project; and

WHEREAS, in light of the many contributions of Mr. Reginald F. Kirby to Warren County, an appropriate tribute would be the naming of the bridge on KY 2629 to honor this native Warren Countian, who lived in the community near the place where this bridge now stands.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of Transportation be directed to name the bridge of KY 2629 just off of US 231 after Mr. Reginald F. Kirby.

Section 2. That a copy of this resolution be transmitted to the Secretary of Transportation, the Fiscal Court of Warren County and the family of Mr. Reginald F. Kirby.

HJR 120, A JOINT RESOLUTION directing the Secretary of the Transportation Cabinet to designate a portion of United States Highway 23 and Kentucky Route 197, "The Trail of the Lonesome Pine Parkway".

WHEREAS, native Kentuckian and novelist, John Fox, Jr. made the area between Elkhorn City and Pineville famous through his literary works such as, ***The Little Shepherd of Kingdom Come*, *The Trail of the Lonesome Pine***, and ***The Red Fox of the Cumberlands***; and

WHEREAS, events such as the baptism of one of Fox's leading characters took place in a deep hole of water at the mouth of Elkhorn Creek and the Great Revival of 1880 as described in a Fox novel took place at the present site of the school campus at Elkhorn City; and

WHEREAS, many of the sites made famous by the novels of this great Kentuckian could be visited by taking U.S. 23 from the Virginia state line to the junction of KY 197 and following that route into Elkhorn City; and

WHEREAS, the people of Elkhorn City hope to publicize some of the numerous events which have occurred locally throughout the years, as they promote their Apple Blossom Festival, October Festival, the Breaks Interstate Park and the white water rafting available in the area; and

WHEREAS, a special designation for U.S. 23 and KY 197 as the "Trail of the Lonesome Pine Highway" would expand the concept of promoting historic and scenic routes in Eastern Kentucky and offer the potential for regional marketing and tourism promotional opportunities;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Kentucky Transportation Cabinet be directed to designate that portion of U.S. 23 from the Kentucky state line to the intersection of KY 197 and KY 197 from the intersection of U.S. 23 to Elkhorn City "The Trail of the Lonesome Pine Parkway".

Section 2. That the Secretary of Transportation be directed to set aside the necessary funds to ensure that appropriate sign designating this route are posted.

Section 3. That a copy of this resolution be sent to the Governor, the Secretary of Transportation, the Fiscal Courts of Pike and Letcher County and the City Commission of Elkhorn City.

SJR 36, A JOINT RESOLUTION directing the Secretary of the Transportation Cabinet to name Kentucky Highway 676 "Veterans Memorial Drive".

WHEREAS, the Kentucky Department of Highways has completed construction of a connector road between U. S. Highway 421 and Highway 127 in Franklin County; and

WHEREAS, this road is located in the vicinity of the Kentucky State Capitol; and

WHEREAS, Kentucky's Veterans would travel on this road to the seat of State Government; and

WHEREAS, Kentucky's Veterans have faithfully and honorably served the Commonwealth of Kentucky; and

WHEREAS, naming this road for Kentucky's Veterans would serve as a lasting memorial to the men and women who have served their state;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Transportation Cabinet be directed to name Highway 676 "Veterans Memorial Drive."

Section 2. That the Secretary of the Transportation Cabinet be directed to place the appropriate plaques or signs commemorating this route.

Section 3. That a copy of this resolution be transmitted to the Governor of the Commonwealth of Kentucky, the Secretary of the Transportation Cabinet and the Adjutant General.

The Committee on Transportation reported **HJR 51** and **HCR 99** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HJR 51, A JOINT RESOLUTION directing the Secretary of Transportation to name the Mershone Bridge on Kentucky Highway 274 in Trigg County the John Woodruff Bridge.

WHEREAS, Mr. John Woodruff was the organizer and first President of the Cadiz-Trigg County Chamber of Commerce; and

WHEREAS, his contributions of land to Trigg County has enabled the community to attract such businesses as Kentucky Machine and Engine and Bison Pump; and

WHEREAS, his most recent gift of land and a building located on US Highway 68 attracted a business to the area which will create approximately 40 new jobs; and

WHEREAS, prior to his charitable acts of giving land to Trigg County, Mr. Woodruff's businesses were the largest employer in Trigg County; and

WHEREAS, Mr. Woodruff has been involved in so many activities to promote Cadiz and Trigg County and to make a better quality of life for everyone in the area;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of Transportation is directed to name the Mershone Bridge on Kentucky Highway 274 in Trigg County after Mr. John Woodruff.

Section 2. That a copy of this resolution be sent to the Secretary of Transportation and the Trigg County Fiscal Court.

HCR 99, A CONCURRENT RESOLUTION urging the Federal Highway Administration to reinstitute the truck diversion policy on Interstate 471 in northern Kentucky.

WHEREAS, The Federal Highway Administration permitted the existence of a truck diversion policy on Interstate 471 since July of 1986, but lifted the ban in May of 1988; and

WHEREAS, since the suspension of the order which diverted truck traffic on Interstate 471, a motor carrier dumped 330 gallons of a hazardous and combustible material at the Grand Avenue exit in Newport, Kentucky; and

WHEREAS, as a result of this spill, eight homes and two schools were forced to evacuate, the hazardous material found its way into the area sewer system and traffic on an interstate highway was held up for over two hours; and

WHEREAS, the segment of interstate highway for which the diversion is sought is in a densely populated area with high traffic volume and with a hospital, four schools and a senior citizen home in the immediate vicinity; and

WHEREAS, the official position of the Federal Highway Administration is that one accident does not constitute the imposition of a truck diversion policy; and

WHEREAS, the method to satisfy the Federal Highway Administration that a truck ban should be imposed seems to be through statistical data, meaning that a significant number of accidents must occur; and

WHEREAS, this cavalier approach at the federal level with regard to highway safety ignores the fact that the road has inherent safety problems relating to grade, configuration, exit ramps and traffic volume as well as high possibility of disaster in human terms because of the dense population of the area and high use of the road;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Federal Highway Administration be urged to reimpose the truck ban on Interstate 471 in northern Kentucky.

Section 2. That a copy of this resolution be transmitted to the Director of the Federal Highway Administration, the Secretary of the Kentucky Transportation Cabinet, each member of the Kentucky Congressional delegation to the United States Congress and the mayors of Newport, Southgate, Fort Thomas, and Bellevue, Kentucky.

The Committee on Banking and Insurance reported **HB 411** with Committee Amendment and Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 411, AN ACT relating to the use of aftermarket crash parts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Insurer" means an insurance company and any person authorized to represent the insurer with respect to a claim;

(2) "Aftermarket crash part" means a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels;

(3) "Non-original equipment manufacturer (Non-OEM) aftermarket crash part" means aftermarket crash parts not made for or by the manufacturer of the motor vehicle;

(4) "Repair facility" means any motor vehicle dealer, garage, body shop or other commercial entity that undertakes the repair or replacement of those parts which generally constitute the exterior of a motor vehicle;

(5) "Installer" means an individual who actually does the work of replacing or repairing parts of a motor vehicle.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any aftermarket crash part, supplied by a non-original equipment manufacturer for use in this state, shall have affixed thereto or inscribed thereon the logo or name of its manufacturer. The manufacturer's logo or name shall be visible after installation whenever practicable.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) No insurer shall specify the use of non-OEM aftermarket crash parts in the repair of an insured's motor vehicle.

(2) No repair facility or installer shall use non-OEM aftermarket parts to repair a vehicle, unless the consumer is advised in writing.

(3) Where non-OEM aftermarket crash parts are intended for use by an insurer:

(a) The written estimate shall clearly identify each non-OEM aftermarket crash part; and

(b) A disclosure document containing the following information in ten (10) point type or larger type shall appear on or be attached to the insured's copy of the estimate: "THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS ARE PROVIDED BY THE MANUFACTURER OR DISTRIBUTOR OF THESE PARTS RATHER THAN THE MANUFACTURER OF YOUR VEHICLE."

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any violation of this Act shall be subject to the provisions of KRS Chapter 304, Subtitle 12, Trade Practices and Frauds.

The Committee Substitute to **HB 411** is as follows:

HB 411, AN ACT relating to the use of aftermarket crash parts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Insurer" means an insurance company and any person authorized to represent the insurer with respect to a claim;

(2) "Aftermarket crash part" means a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels;

(3) "Non-original equipment manufacturer (Non-OEM) aftermarket crash part" means aftermarket crash parts not made for or by the manufacturer of the motor vehicle;

(4) "Repair facility" means any motor vehicle dealer, garage, body shop or other commercial entity that undertakes the repair or replacement of those parts which generally constitute the exterior of a motor vehicle.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any aftermarket crash part, supplied by a non-original equipment manufacturer for use in this state, shall have affixed thereto or inscribed thereon the logo or name of its manufacturer. The manufacturer's logo or name shall be visible after installation whenever practicable.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) No insurer shall specify the use of non-OEM aftermarket crash parts in the repair of an insured's motor vehicle unless the consumer is notified in writing.

(2) No repair facility shall use non-OEM aftermarket crash parts to repair a vehicle, unless the consumer is advised in writing.

(3) Where non-OEM aftermarket crash parts are intended for use by an insurer:

(a) The written estimate shall clearly identify each non-OEM aftermarket crash part; and

(b) A disclosure document containing the following information in ten (10) point type or larger type shall appear on or be attached to the insured's copy of the estimate: "THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS ARE PROVIDED BY THE MANUFACTURER OR DISTRIBUTOR OF THESE PARTS RATHER THAN THE MANUFACTURER OF YOUR VEHICLE."

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any violation of this Act shall be subject to the provisions of KRS Chapter 304, Subtitle 12, Trade Practices and Frauds.

The Committee Amendment No. 1 to the Committee Substitute to **HB 411** is as follows:

Amend printed copy of Committee Substitute to **HB 411** on page 2, line 4, after "***name***" by adding "***and country of manufacture***"

On page 2, line 5, after "." by adding

"***All non-original aftermarket crash parts shall have affixed thereto or inscribed thereon the country of manufacture.***"

The Committee on Banking and Insurance reported **HB 410** with Committee Amendment attached thereto, and **HB 426** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 410, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.45-010 is amended to read as follows:

The purpose of this subtitle is to regulate the formation ***or operation of risk retention groups and purchasing groups in the state formed pursuant to the provisions of the Product Liability Risk Retention Act of 1981 (P.L. 97-45) and the Liability Risk Retention Act of 1986 (P.L. 99-563), 15 U.S.C. sec. 3901 et seq., to the extent permitted by such laws, for the protection of the public*** [~~and operation in this state of risk retention groups formed pursuant to the Product Liability Risk Retention Act of 1981 (Public Law 97-45), 15 U.S.C. sec. 3901 et seq., and to protect the public by appropriate regulation of these risk retention groups~~].

Section 2. KRS 304.45-020 is amended to read as follows:

As used in this subtitle:

(1) "Commissioner" means the commissioner of the Kentucky Department of Insurance or the insurance supervisory of another state;

(2) "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by:

(a) Any person who performs that work; or

(b) Any person who hires an independent contractor to perform that work, but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability;

(3) "Domicile," for the purposes of determining the state in which a purchasing group is domiciled, means:

(a) For a corporation, the state in which the purchasing group is incorporated; and

(b) For an unincorporated entity, the state of its principal place of business;

(4) "Hazardous financial condition" means a condition in which, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able:

(a) To meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

(b) To pay other obligations in the normal course of business;

(5) "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risks which is determined to be insurance under the laws of this state;

(6) "Liability":

(a) Means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons, damage to their property, or other damage or loss to such other persons resulting from or arising out of:

1. Any business (whether profit or nonprofit), trade, product, services (including professional services), premises, or operations; or

2. Any activity of any state or local government, or any agency or political subdivision thereof; but

(b) Does not include personal risk liability or an employer's liability with respect to its employees other than legal liability under the federal Employers' Liability Act (45 U.S. sec. 51 et seq.);

(7) "Personal risk liability" means liability for damages because of injury to any person, damage to property, or other loss or damage arising from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subsection (6) of this section;

(8) "Plan of operation or a feasibility study" means an analysis which presents the expected activities and results of a risk retention group, including, at a minimum:

(a) Information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations;

(b) For each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification system for each kind of insurance the group intends to offer;

(c) Historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available;

(d) Pro forma financial statements and projections;

(e) Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

(f) Identification of management, underwriting and claim procedures, marketing methods, managerial oversight methods, and investment policies; and

(g) Such other matters as may be prescribed by the commissioner for liability insurance companies authorized by the insurance laws of the state in which the risk retention group is chartered;

(9) "Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage (including damages resulting from the loss of use of property) arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of such person when the incident giving rise to the claim occurred;

(10) "Purchasing group" means any group which:

(a) Has as one (1) of its purposes the purchase of liability insurance on a group basis;

(b) Purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in paragraph (c) of this subsection;

(c) Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

(d) Is domiciled in any state;

(11) "Risk retention group" means any corporation or other limited liability association:

(a) Whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members;

(b) Which is organized for the primary purpose of conducting the activity described under paragraph (a) of this subsection;

(c) Which:

1. Is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or

2. Before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before such date, had certified to the commissioner of at least one (1) state that it satisfied the capitalization requirements of such state, except that any such group shall be considered to be a risk retention group only if it has engaged in business continuously since such date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability (as such terms were defined under the Product Liability Risk Retention Act of 1981 prior to the date of the enactment of the Liability Risk Retention Act of 1986);

(d) Which does not exclude any person from membership in the group solely to provide for members of such group a competitive advantage over such person;

(e) Which:

1. Has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group; or

2. Has as its sole owner an organization which has as its members only persons who comprise the membership of the risk retention group and as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group;

(f) Whose members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

(g) Whose activities do not include the provision of insurance other than:

1. Liability insurance for assuming and spreading all or any portion of the liability of its group members; and

2. Reinsurance with respect to the liability of any other risk retention group or any members of such other group which is engaged in businesses or activities so that such group or member meets the requirement described in paragraph (f) of this subsection from membership in the risk retention group and which provides such reinsurance; and

(h) The name of which includes the phrase "risk retention group;"

(12) "State" means any state of the United States or the District of Columbia.

[~~(1) "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by:~~

~~(a) Any person who performs that work; or~~

~~(b) Any person who hires an independent contractor to perform that work;~~

~~but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability;~~

~~(2) "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state;~~

~~(3) "Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage (including damages resulting from the loss of use of property) arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of such a person when the incident giving rise to the claim occurred;~~

~~(4) "Risk retention group" means any corporation or other limited liability association taxable as a corporation or as an insurance company formed pursuant to this subtitle:~~

~~(a) Which is organized for the primary purpose of assuming and spreading the product liability or completed operations liability risk exposure of its members;~~

~~(b) Whose primary activity consists of assuming and spreading all, or any portion, of the product liability or completed operations liability risk exposure of its group members; and~~

~~(c) Which is composed of members each of whose principal activity consists of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product or products;~~

~~(5) "Service providers" means any person providing insurance-related services or management services to, or for, a risk retention group, including, but not limited to, agents, claims appraisers and adjusters, insurers, actuaries, and insurance consultants.~~]

Section 3. KRS 304.45-030 is amended to read as follows:

(1) A risk retention group shall, pursuant to the provisions of this chapter, be chartered and licensed to write only liability insurance pursuant to this subtitle, and, except as otherwise provided in this subtitle, shall comply with all of the laws, regulations, and requirements applicable to such insurers chartered and licensed in this state and with KRS 304.45-040 to the extent such requirements are not a limitation on laws, regulations, or requirements of this state.

(2) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of this state a plan of operation or a feasibility study and revisions of such plan or study if the group intends to offer any additional kinds of liability insurance. The group shall not offer any additional kinds of liability insurance in this state or any other state until a revision of such plan or study is approved by the commissioner.

(3) At the time of filing its application for charter, the risk retention group shall provide to the commissioner in summary form the identity of the initial members of the group, the identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group, the amount and nature of initial capitalization, the coverages to be afforded, and the states in which the group intends to operate. Upon receipt of the information, the commissioner shall forward such information to the national association of insurance commissioners. Providing notification to the National Association of Insurance Commissioners is in addition to and shall not be sufficient to satisfy the requirements of Section 4 of this Act and all other sections of this subtitle.

(4) A risk retention group chartered and licensed in this state as a product liability risk retention group under the provisions of KRS Chapter 304 in effect prior to the effective date of this Act may continue to act as such without complying with this subtitle as long as it complies with the provisions of KRS Chapter 304 in effect prior to the effective date of this Act. The exception provided in this subsection shall cease to apply to any product liability risk retention group which offers any other kind of liability insurance other than product liability or completed operations liability insurance.

[~~A risk retention group seeking to be chartered in this state must be chartered and authorized as an insurance company under the insurance laws of this state and, except as provided elsewhere in this subtitle, must comply with all laws, regulations, and requirements applicable to such insurers chartered and authorized in this state.~~]

Section 4. KRS 304.45-040 is amended to read as follows:

Risk retention groups chartered and licensed in states other than this state and seeking to do business as a risk retention group in this state shall observe and abide by the laws of this state as follows:

(1) Before offering insurance in this state, a risk retention group shall submit to the commissioner:

(a) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering and licensing, its principal place of business, and such other information, including information on its membership, as the commissioner of this state may require to verify that the risk retention group is qualified under subsection (11) of Section 2 of this Act;

(b) A copy of its plan of operations or a feasibility study and revisions of such plan or study submitted to its state of domicile, but the provision relating to the submission of a plan of operation or a feasibility study shall not apply as to any kind or classification of liability insurance which was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and was offered before such date by any risk retention group which had been chartered and operating for not less than three (3) years before such date; and

(c) A statement of registration which designates the Secretary of State as its agent for the purpose of receiving service of legal documents or process.

(2) Any risk retention group doing business in this state shall submit to the commissioner:

(a) A copy of the group's financial statement submitted to the state in which the risk retention group is chartered and licensed, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist under criteria established by the National Association of Insurance Commissioners;

(b) A copy of each financial, market conduct, or other examination of the risk retention group as certified by the commissioner or public official conducting the examination;

(c) Upon request by the commissioner, a copy of any audit performed with respect to the risk retention group; and

(d) Such information as may be required to verify its continuing qualification as a risk retention group under subsection (11) of Section 2 of this Act.

(3) Any risk retention group shall submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within sixty (60) days after a request by the commissioner of this state. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioners' examiner handbook. Such examinations shall be conducted in accordance with KRS 304.2-210 to 304.2-300.

(4) Any policy issued by a risk retention group shall contain in ten (10) point boldface type the following legend:

NOTICE

THIS POLICY IS ISSUED BY YOUR RISK RETENTION GROUP. YOUR RISK RETENTION GROUP MAY NOT BE SUBJECT TO ALL OF THE INSURANCE LAWS AND REGULATIONS OF YOUR STATE. STATE INSURANCE INSOLVENCY GUARANTY FUNDS ARE NOT AVAILABLE FOR YOUR RISK RETENTION GROUP.

(5) In the solicitation or sale of insurance, a risk retention group shall not:

(a) Solicit or sell insurance to any person who is not eligible for membership in such group; and

(b) Solicit or sell insurance issued by, or otherwise operate, a risk retention group that is in a hazardous financial condition or is financially impaired.

(6) No risk retention group shall be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of such risk retention group, except if all members of the risk retention group are insurance companies.

(7) A risk retention group shall not offer insurance policy coverage prohibited by statute or regulation or declared unlawful by the highest court of this state.

(8) A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a commissioner if there has been a finding of financial impairment after an examination under subsection (3) of this section.

(9) A risk retention group registered in this state as a product liability risk retention group under the provisions of KRS Chapter 304 in effect prior to the effective date of this Act may continue to act as such without complying with this subtitle as long as it complies with the provisions of KRS Chapter 304

in effect prior to the effective date of this Act. The exception provided in this subsection shall cease to apply to any product liability risk retention group which offers kinds of liability insurance other than product liability or completed operations liability insurance.

[~~(1) Risk retention groups chartered in states other than this state, Bermuda, or the Cayman Islands and seeking to do business as a risk retention group in this state must:~~

~~(a) Register with the commissioner in this state;~~

~~(b) Designate the secretary of state as its agent for service of process and receipt of legal documents;~~

~~(c) No later than March 1st of each year, file with the commissioner of this state its annual statement as filed with the commissioner in the chartering state or the public official having supervision of insurance in the chartering jurisdiction;~~

~~(d) File a copy of the last examination, if any, made of the risk retention group, certified by the commissioner of the chartering state or the public official having supervision of insurance in the chartering jurisdiction; and~~

~~(e) File with the commissioner, on the date specified by the commissioner, the product liability loss experience data report required by the commissioner pursuant to KRS 304.3-240;~~

~~(2) Risk retention groups chartered in Bermuda or the Cayman Islands, in addition to the requirements of subsection (1) of this section, must:~~

~~(a) Be chartered or licensed and authorized to do business under the laws of Bermuda or the Cayman Islands before January 1, 1985;~~

~~(b) File with the commissioner of this state a copy of the certification filed with the commissioner of at least one (1) state that the risk retention group satisfies the capitalization requirements of that state, together with evidence that such certification has been accepted by the commissioner of that state as meeting the requirements of that state; and~~

~~(c) File, with the commissioner of the state in which it certifies its capitalization, a waiver of any secrecy laws of the jurisdiction in which it is chartered.~~]

Section 5. KRS 304.45-050 is amended to read as follows:

Any purchasing group meeting the criteria established under the provisions of the Liability Risk Retention Act, 15 U.S.C. Section 3901 et seq., shall be exempt from any law of this state relating to the creation of groups for the purchase of insurance, the countersignature requirement as provided in KRS 304.3-250, prohibition of group purchasing of insurance, or any law that would discriminate against a purchasing group or its members. In addition, an insurer shall be exempt from any law of this state which prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group shall be subject to all other applicable laws of this state.

[~~(1) (a) Any person who is a resident of this state acting or offering to act as an agent as defined in KRS 304.9-020, for a risk retention group or any of its members in this state must obtain a license as an agent in accordance with subtitle 9 of this chapter;~~

~~(b) An agent duly licensed by another state and residing outside of this state may act as an agent for a risk retention group operating in this state or any of its members in this state in the same manner as a resident agent or broker upon obtaining a license in accordance with subtitle 9 of this chapter. The restrictions of KRS 304.9-140 on nonresident general lines insurance agents do not apply to nonresident agents for risk retention groups; and~~

~~(c) Any agent licensed in accordance with paragraph (a) or (b) of this subsection may be required by the commissioner to report to the commissioner the activities and scope of services they are providing to the risk retention group.~~

~~(2) Before placing business with a risk retention group, each agent shall secure from the appropriate insurance regulatory authority a certified copy of the certificate of authority verifying that such insurer is authorized in its domiciliary jurisdiction to write the product liability or completed operations liability insurance policy proposed to be procured from it by the agent.~~

~~(3) Every policy or contract of insurance placed by an agent with a risk retention group chartered or authorized in this state shall bear across its face in not less than 10-point boldface red-type the following legend:~~

~~"THE INSURANCE HEREBY EVIDENCED IS WRITTEN~~
~~BY A RISK RETENTION GROUP LICENSED BY THE~~
~~COMMONWEALTH OF KENTUCKY BUT IN THE EVENT~~
~~OF THE INSOLVENCY OF THIS RISK RETENTION~~
~~GROUP, IS NOT PROTECTED BY THE KENTUCKY~~
~~INSURANCE GUARANTY ASSOCIATION."~~

~~(4) Every policy or contract of insurance placed by an agent with a risk retention group not chartered or authorized in this state shall bear across its face in not less than 10-point boldface red type the following legend:~~

~~"THE INSURANCE HEREBY EVIDENCED IS WRITTEN~~
~~BY A RISK RETENTION GROUP NOT LICENSED BY THE~~
~~COMMONWEALTH OF KENTUCKY, NOT SUBJECT TO~~
~~ITS SUPERVISION, AND NOT PROTECTED IN THE~~
~~EVENT OF INSOLVENCY OF THIS RISK RETENTION~~
~~GROUP BY THE KENTUCKY INSURANCE~~
~~GUARANTY ASSOCIATION."~~]

Section 6. KRS 304.45-060 is amended to read as follows:

(1) A purchasing group which intends to do business in this state shall, prior to doing business, furnish notice to the commissioner which shall:

(a) Identify the state in which the purchasing group is domiciled;

(b) Specify the kinds and classification of liability insurance which the purchasing group intends to purchase;

(c) Identify the insurance company or companies from which the purchasing group intends to purchase its insurance and the domicile or domiciles of such insurance company or insurance companies;

(d) Specify the method by which and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state;

(e) Identify the principal place of business of the purchasing group; and

(f) Provide such other information as may be required by the commissioner to verify that the purchasing group is qualified under KRS 304.45-020(10) and is otherwise in compliance with the laws of this state.

(2) The purchasing group shall register with and designate the Secretary of State as its agent solely for the purpose of receiving legal documents or process, except that such requirement shall not apply in the case of a purchasing group:

(a) Which in any state of the United States:

1. Was domiciled before April 1, 1986; and

2. Is domiciled on and after October 27, 1986;

(b) Which:

1. Before October 27, 1986, purchased insurance from an insurer licensed in any state; and

2. Since October 27, 1986, purchased its insurance from an insurer licensed in any state;

(c) Which was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 (P.L. 97-45) before October 27, 1986; and

(d) Which does not purchase insurance that was not authorized for purposes of an exemption under that act, as in effect before October 27, 1986.

(3) Any purchasing group which was doing business in this state prior to the effective date of this Act shall, within thirty (30) days after the effective date of this Act, furnish notice to the commissioner pursuant to the provisions of this subtitle and furnish the information required pursuant to this subtitle.

[~~(1) Service providers who are not licensed agents must:~~

~~(a) Register with the commissioner; and~~

~~(b) Upon request by the commissioner, report the activities and scope of services which they are providing to the risk retention group.~~

~~(2) This section shall not be interpreted to allow service providers whose activities otherwise require licensing in this state to act on behalf of risk retention groups without such a license.~~]

Section 7. KRS 304.45-070 is amended to read as follows:

(1) A risk retention group:

(a) Shall not be required or permitted to join or contribute financially to any insurance insolvency guaranty fund or similar mechanism in this state, nor shall any risk retention group, its insureds, or claimants against its insureds receive any benefit from any such fund for claims arising under insurance policies issued by such risk retention group; and

(b) Shall participate in this state's joint underwriting associations and mandatory liability pools as provided by this chapter.

(2) A purchasing group:

(a) Which obtains insurance covering its members' risks from an authorized insurer shall have Kentucky Insurance Guaranty Association coverage only for risks resident or located in this state;

(b) Which obtains insurance covering its members' risks from an insurer not authorized in this state or a risk retention group shall not have any Kentucky Insurance Guaranty Association coverage for such risks, wherever resident or located;

(c) Shall not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a person holding the appropriate license pursuant to the insurance agent, insurance broker, or surplus lines laws and regulations of such state;

(d) Shall not offer insurance policy coverage prohibited by statute or regulation or declared unlawful by the highest court of this state;

(e) Shall not purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, but may provide for a deductible or self-insured retention applicable to individual members; and

(f) Is subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

[~~(1) All risk retention groups shall be subject to taxation and shall be deemed to be insurers for the purpose of assessing and collecting taxes in accordance with the provisions of KRS 91A.080, 136.340, 136.350, 136.392, 304.10-180, and 304.11-050, as applicable.~~

~~(2) Agents shall cooperate in the reporting and payment of taxes upon premiums for risks which they have placed with or on behalf of a risk retention group not chartered in this state.~~

~~(3) Failure of risk retention groups and agents to pay taxes in accordance with this section or to cooperate in accordance with this section is a ground for suspension or revocation of certificates of authority, licenses, or permission to do business in this state, imposition of civil penalties, or both.~~]

Section 8. KRS 304.45-080 is amended to read as follows:

(1) All risk retention groups and insurers providing liability insurance to purchasing groups shall be subject to taxation and shall be deemed to be insurers for the purpose of assessing and collecting taxes on premiums. All risk retention groups and insurers issuing liability insurance policies to purchasing groups shall be subject to the taxes set forth in KRS 91A.080 and 136.340 and the surcharge imposed by KRS 136.392.

(2) All persons involved in the solicitation, negotiation, or procurement of liability insurance from a risk retention group or from an insurer issuing a liability insurance group to a purchasing group shall cooperate in the reporting and payment of taxes on premiums for risks located in this state.

(3) Failure of risk retention groups, insurers issuing liability insurance policies to purchasing groups, and any person involved in the solicitation, negotiation, or procurement of liability insurance from a risk retention group or from an insurer issuing a liability insurance policy to a purchasing group to pay taxes in accordance with this section or to cooperate in accordance with this section is a ground for suspension

or revocation of certificates of authority, licenses, or permission to do business in this state, imposition of civil penalties, or both. The commissioner may take any action necessary to assure that applicable premium taxes are paid to the appropriate taxing authorities.

[~~A risk retention group shall not:~~

~~(1) Insure any risks other than those of its member companies;~~

~~(2) Provide any insurance or insurance-related service other than for product liability or completed operations liability unless it obtains the appropriate certificates of authority or licenses in this state and becomes subject to all the laws and regulations of this state with respect to those additional lines of insurance and related services; or~~

~~(3) Exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such person.~~]

Section 9. KRS 304.45-110 is amended to read as follows:

(1) A risk retention group doing business in this state shall be subject to all applicable unfair claims settlement practices laws and regulations as provided in KRS 304.3-200, 304.12-220, and 304.12-230.

(2) The commissioner is authorized to make use of any of the powers established under the insurance statutes and regulations of this state to enforce the laws of this state so long as those powers are not specifically preempted by the Product Liability Risk Retention Act of 1981 (P.L. 97-45) and the Liability Risk Retention Act of 1986 (P.L. 99-563), 15 U.S.C. Section 3901 et seq. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, and impose penalties. Without regard to any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural law and regulations of the state. The injunctive authority of the commissioner in regard to risk retention groups is restricted by the requirement that any injunction be issued by a court of competent jurisdiction.

Section 10. KRS 304.45-120 is amended to read as follows:

Any order issued by any United States District Court enjoining a risk retention group from soliciting or selling insurance or operating in any state, in all states, or any territory or possession of the United States upon a finding that such group is in a hazardous financial condition shall be enforceable in the courts of this state.

[~~(1) A risk retention group chartered in this state must submit to examinations as deemed necessary by the commissioner to determine its financial condition.~~

~~(2) A risk retention group not chartered in this state, and doing business in this state, must submit to an examination if:~~

~~(a) The commissioner has reason to believe the risk retention group is in a financially impaired condition; and~~

~~(b) The commissioner of the state or the public official having supervision over insurance in the jurisdiction in which the risk retention group is chartered has not begun or has refused to initiate an examination of the risk retention group.~~

~~(3) Such examination shall be conducted in accordance with KRS 304.2-210 to 304.2-300.~~]

Section 11. KRS 304.45-130 is amended to read as follows:

(1) No person shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless such person is licensed as an insurance agent in accordance with Subtitle 9 of this chapter.

(a) However, no such license shall be required of salaried employees of a risk retention group not compensated based on the volume of business.

(b) A risk retention group is responsible for the acts of its agents or other persons acting on its behalf in the solicitation, negotiation, or procurement of liability insurance or the acceptance of premiums for liability insurance.

(2) No person shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer, risk retention group chartered in a state, or a surplus lines insurer eligible to do business in this state unless such person is licensed as insurance agent or surplus lines broker in accordance with Subtitles 9 and 10 of this chapter.

(3) No person shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in this state for any member of a purchasing group under a purchasing group's liability insurance policy unless such person is licensed as an insurance agent in accordance with Subtitle 9 of this chapter.

(a) No license shall be required of salaried employees of an insurer or of a purchasing group who are not compensated based on the volume of business.

(b) An insurer issuing a liability insurance policy to a purchasing group is responsible for the acts of its agents or other persons acting on its behalf in the solicitation, negotiation, or procurement of liability insurance or the acceptance of premiums for liability insurance.

[~~(1) A risk retention group chartered and authorized in this state must comply with all lawful orders issued in a delinquency proceeding commenced by the commissioner.~~

~~(2) A risk retention group not chartered in this state and doing business in this state must comply with a lawful order issued in a delinquency proceeding commenced by the commissioner if the commissioner of the state or the public official having supervision over insurance in the jurisdiction in which the risk retention group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under KRS 304.45-120.~~]

Section 12. KRS 304.99-150 is amended to read as follows:

(1) ***Any person acting pursuant to Subtitle 45 of this chapter who violates any applicable provision of this chapter or other applicable insurance laws shall be subject to suspension or revocation of licenses, certificates of authority, or permission to do business in this state, imposition of civil penalties of up to ten thousand dollars ($10,000) per violation, or both. The penalties prescribed in this subsection may be imposed through administrative proceedings in the Department of Insurance, an action, or such other proceedings specified by law. Any civil penalty not paid may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in any court of appropriate jurisdiction.*** [~~A risk retention group doing business in this state which violates any applicable provision of subtitle 45 of this chapter will be subject to the penalties applicable to authorize insurers generally, including suspension or revocation of its certificate of authority or the right to do business in this state, imposition of civil penalties, or both.~~]

(2) This subtitle applies to subtitle 45 of this chapter.

Section 13. KRS 304.45-090, Guaranty fund contributions and benefits prohibited, is repealed.

The Committee Amendment No. 1 to **HB 410** is as follows:

Amend printed copy of **HB 410** on page 1, line 3 by inserting "*(1)*" at the beginning of the line before "The";

On page 1, after line 14 and before line 15 by inserting:

"(2) The provisions of KRS 304.45-010 to KRS 304.45-150 shall not apply to a self-insurance pool, self-insurance fund, or other self-insurance association, including those considered to be tax exempt under the Internal Revenue Code and those organized under KRS Chapters 65, 66, or 67, KRS 304.1-120(6), KRS 342.350, or other enabling legislation.".

HB 426, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of KRS Chapter 287:

(a) An individual or bank holding company that controls two (2) or more banks having their principal offices in this Commonwealth may, from time to time, combine any or all of the commonly controlled banks in this Commonwealth into and with any one of the banks, and thereafter the surviving bank shall continue to operate its principal office and may operate the other authorized offices of the banks so combined as branches of the surviving bank; and

(b) Any combination authorized by this section shall not require the approval of the commissioner of financial institutions under KRS 287.172 or any other provision of this chapter, but within fifteen (15) days after consummation of any combination, the surviving bank shall notify the commissioner of the combination, and the charter of any combined bank organized under the laws of this Commonwealth shall be surrendered.

(2) Following any combination authorized by this section:

(a) The surviving bank may, subject to the approval of the commissioner as provided in KRS 287.180(2), establish and operate additional branches at any location where a combined bank could, on or after the combination authorized by this section, have established and operated a branch;

(b) Any combined bank which is being operated as a branch of the surviving bank shall have a community board, a majority of which shall be residents of the combined bank's community, which shall meet not less often than quarterly to advise the branch in a nonfiduciary capacity with respect to the branch's community activities and affairs, customer relations and local charitable activities;

(c) 1. The surviving bank and each combined bank shall, for purposes of the tax which may be imposed pursuant to the provisions of subsections (2) or (3) of KRS 136.270, be deemed to be located in the city or county in which it was located prior to such combination, and that city or county may continue to impose the tax provided for in subsections (2) or (3) of KRS 136.270 upon that proportion of the taxable fair cash value of shares of the surviving bank as the deposits of the surviving bank within that city or county bears to the total deposits of the surviving bank wherever located as reported to applicable regulatory authorities by the surviving bank. A copy of the deposit report shall be submitted to the Revenue Cabinet and to the assessing officer of each city and county in which the surviving bank and any combined bank is deemed to be located pursuant to this subsection;

2. The surviving bank shall maintain a record of the deposits in each of its offices resulting from such combination or thereafter established as provided in paragraph (a) of this subsection and, except for deposits transferred or relocated at the request of the depositor, shall not cause or permit such deposits to be transferred or relocated to another branch with the intent to reduce the amount of any tax imposed by any city or county pursuant to paragraph (c) of this subsection;

(3) For purposes of this section:

(a) The term "combine" or "combination" includes a merger or the acquisition of all or substantially all of the assets of a bank;

(b) An individual or bank holding company "controls" a bank if that individual or company, directly or indirectly, owns, controls or has the power to vote at least eighty percent (80%) of the issued and outstanding voting securities of the bank;

(c) "Combined bank" means any bank participating in a combination authorized by this section other than the surviving bank;

(d) "Surviving bank" means a bank into which a combined bank has been combined;

(e) "Bank" includes a national bank but does not include a bank which has been in existence less than five (5) years; and

(f) "Individual", "bank holding company" and "deposit" shall have the same meanings attributed to them in KRS 287.900(1).

The Committee Substitute to **HB 426** is as follows:

HB 426, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of KRS Chapter 287:

(a) An individual or bank holding company that controls two (2) or more banks having their principal offices in this Commonwealth may, from time to time, combine any or all of the commonly controlled banks in this Commonwealth into and with any one of the banks, and thereafter the surviving bank, which shall have its principal office in this Commonwealth, shall continue to operate its principal office and may operate the other authorized offices of the banks so combined as branches of the surviving bank; and

(b) Any combination authorized by this section shall not require the approval of the commissioner of financial institutions, but on or before thirty (30) days prior to consummation of any combination, the proposed surviving bank shall notify the commissioner of the combination, and on the effective date of any such combination the charter of any combined bank organized under the laws of this Commonwealth shall be surrendered.

(2) Following any combination authorized by this section:

(a) The surviving bank may, subject to the approval of the commissioner as provided in KRS 287.180(2), establish and operate additional branches at any location where a combined bank could, on or after the combination authorized by this section, have established and operated a branch;

(b) Any combined bank which is being operated as a branch of the surviving bank shall have a board of directors, a majority of which shall be residents of the combined bank's community, which shall meet not less often than monthly to advise the branch in a nonfiduciary capacity with respect to the branch's community activities and affairs, customer relations and local charitable activities;

(c) 1. The surviving bank and each combined bank shall, for purposes of the tax which may be imposed pursuant to the provisions of subsections (2) or (3) of KRS 136.270, be deemed to be located in the city or county in which it was located prior to such combination, and that city or county may continue to impose the tax provided for in subsections (2) or (3) of KRS 136.270 upon that proportion of the taxable fair cash value of shares of the surviving bank as the deposits of the surviving bank within that city or county bears to the total deposits of the surviving bank wherever located as reported to the Federal Deposit Insurance Corporation or other applicable regulatory authorities by the surviving bank; provided, that, so long as the surviving bank maintains a branch or branches within a city or county imposing the tax provided for in subsections (2) or (3) of KRS 136.270, such tax shall in no event be less than the tax imposed by the city or county for the year immediately prior to such combination. A copy of the deposit report of the surviving bank and of any combined bank where deposits are not included in the report of the surviving bank shall e submitted to the Revenue Cabinet by the surviving bank with its annual report of banks and trust companies for Kentucky property tax purposes as of the beginning of each year and to the assessing officer of each city and county in which the surviving bank and any combined bank is deemed to be located pursuant to this subsection;

2. The surviving bank shall maintain a record of the deposits in each of its offices resulting from such combination or thereafter established as provided in paragraph (a) of this subsection and, except for deposits transferred or relocated at the request of the depositor, shall not cause or permit such deposits to be transferred or relocated to another branch with the intent to reduce the amount of any tax imposed by any city or county pursuant to paragraph (c) of this subsection;

(3) For purposes of this section:

(a) The term "combine" or "combination" includes a merger or the acquisition of all or substantially all of the assets of a bank already controlled by an individual or bank holding company;

(b) An individual or bank holding company "controls" a bank if that individual or company, directly or indirectly, owns, controls or has the power to vote at least eighty percent (80%) of the issued and outstanding voting securities of the bank;

(c) "Combined bank" means any bank participating in a combination authorized by this section other than the surviving bank;

(d) "Surviving bank" means a bank into which a combined bank has been combined;

(e) "Bank" includes a national bank but does not include a bank which has been in existence less than five (5) years; and

(f) "Individual", "bank holding company" and "deposit" shall have the same meanings attributed to them in KRS 287.900(1).

Representative Lewis moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lewis moved that his vote be changed from "nay" to "yea" on **HB 231**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 436**, by Representative LeMaster:

Amend printed copy of **HB 436** on page 7, line 14, after "***(17)***" insert "***All motor*** and delete "***Motor***" line 15, after "***dealer***" insert the following: "***, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230***"

Floor Amendment No. 1 to the Committee Substitute to **HB 353**, by Representative Geveden:

Amend printed copy of HCS to **HB 353** on page 2, line 1, to remove "*or*"; and

On line 3, to remove the "." and insert in lieu thereof "*; or*"; and

Below line 3, to insert the following:

"***(e) Any deadly weapon which is located in a vehicle and is not removed from the vehicle.***".

Floor Amendment No. 1 to **HB 352**, by Representative McBee:

Amend printed copy of **HB 352** on page l, line 8, by adding, after the word "disability", the phrase "***after October l, l989,***";

On page l, line 14, by adding, after the word "relationship", the word "***shall***" and placing brackets around the word "must" and striking through;

On page l, line 16, by adding, after the word "relationship", the word "***shall***" and placing brackets around the word "must" and striking through;

On page l, line 18, by adding, after the word "death", the word "***shall***" and placing brackets around the word "must" and striking through;

On page 3, line 7, by adding after the phrase "***firefighter or volunteer firefighter***" the word "***shall***" and placing brackets around the word "must" and striking through;

On page 3, line 20, by adding, after the word "rating", the word "***shall***" and placing brackets around the word "must" and striking through;

On page 4, line 16, by adding, after the word "relationship", the word "***shall***" and placing brackets around the word "must" and striking through;

On page 4, line 18, by adding, after the word "relationship", the word "***shall***" and placing brackets around the word "must" and striking through;

On page 4, line 23, by adding, after the phrase "***firefighter or volunteer firefighter***" the word "***shall***" and placing brackets around the word must and striking through.

Floor Amendment No. 5 to **HB 38**, by Representative B. Richardson:

Amend printed copy of **HB 38** on page 3, after line 3 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 510 is CREATED TO READ AS FOLLOWS:

In any proceeding to determine custody of or visitation with children, no evidence that one has been charged with violation of this statute, if the person charged and the complainant are married or that such a proceeding is pending, or any evidence regarding the circumstances on which such charge is based, shall be admissible into evidence on the issue of custody or visitation, nor shall any weight be given by any court to the existence of such a proceeding or the parts on which such proceeding is based."

Floor Amendment No. 1 to **SB 46**, by Representative Worthington:

Amend printed copy of GA Copy of **SB 46** on page 4, line 26, by deleting the words "***August 1***" and by inserting the words "***November 1***" in lieu thereof.

On page 5, line 3, after the word "***state***" by inserting the following language: "***, including transportation projects as submitted by the Kentucky Transportation Cabinet and approved by the Joint Transportation Committee,***".

On page 6, line 1, after the word "***agency***" by inserting the following language: "***, excluding the Department of Highways,***".

Floor Amendment No. 2 to the Committee Substitute to **HB 516**, by Representative Barrows:

Amend printed copy of HCS for **HB 516** on page 7, line 4, after the word "of" by deleting the words "***one thousand***" and inserting and underlining in lieu thereof "***five hundred***"; and

On page 7, line 5, by deleting "***($1000)***" and inserting and underlining in lieu thereof "***($500)***"; and

On page 7, line 10, after the word "***retailer***" by deleting the following:

*"**and has paid an annual fee of ten dollars ($10) for the registration of each location where fireworks, novelties, or trick noisemakers are offered for sale**"*; and

On page 7, line 17, after the word "***location***" by deleting the following:

"***together with the ten dollar ($10) annual fee for each location***".

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, February 23, 1990.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 0.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 23, 1990

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins and T. Jones.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 22, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 45, SB 81, SB 142, SB 172, SB 199, SB 200, SB 226, SB 237, SB 242, SB 257, SB 261, SB 269, SB 273, SJR 57, SJR 58, HB 68, HB 91, HB 239** and **HJR 19**.

Representative Castleman moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 145, by Representative Castleman: A RESOLUTION honoring Carroll Hubbard, Jr.

Representative Castleman moved the adoption of the following **HR 145**:

HR 145, A RESOLUTION honoring Carroll Hubbard, Jr.

WHEREAS, it was a great day for Kentucky on July 7, 1937 when Carroll Hubbard, Jr. was born; and

WHEREAS, in his formative years, he received his BA from Georgetown College and his JD from the University of Louisville; and

WHEREAS, our Congressman from Mayfield was elected as first district representative in 1975, and has been reelected ever since; and

WHEREAS, Congressman Hubbard serves on the Committee on Merchant Marines and Fisheries, and, as a member of the Committee on Banking, Finance and Urban Affairs he also serves on the Subcommittee on Consumer Affairs and Coinage, the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, the Subcommittee on Housing and Community Development and is the chairman of the Subcommittee on General Oversight and Investigations; and

WHEREAS, our esteemed Congressman is Majority Zone Whip and is a member of the Conservative Democratic Forum, the Congressional Rural Caucus, the Congressional Coal Group and the Congressional Maritime Caucus;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is filled with praise and appreciation for years of faithful service that Congressman Carroll Hubbard has bestowed upon the Commonwealth.

Section 2. That the House of Representatives welcomes and applauds our colleague from Washington this 23rd day of February, 1990.

Section 3. That the clerk of the House dispatch a copy of this resolution to Congressman Hubbard.

HR 145 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended to allow floor privileges to U. S. Congressman, Carroll Hubbard, Jr. Agreed.

U. S. Congressman Hubbard briefly addressed the House.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 4** and **HB 314** have been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 9:11 a.m.)

HB 4 and **HB 314** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 691, by Representatives Walker and K. Harper: AN ACT relating to the Kentucky Development Finance Authority.

HB 692, by Representative Walker: AN ACT relating to education.

HB 693, by Representative Farrow: AN ACT relating to roads.

HB 694, by Representative Farrow: AN ACT relating to airport zoning.

HB 695, by Representative Farrow: AN ACT relating to the establishment of management districts in cities of the second through sixth class.

HCR 144, by Representatives Zimmerman, Bruce, Bentley, Siler, Noland and Ford: A CONCURRENT RESOLUTION requesting that the United States Army approve the authorization of the Combat Tankers Badge.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 675, SB 253.**

Appropriations and Revenue: **HB 673, HB 689, SB 41.**

Banking and Insurance: **HB 677.**

Business Organizations and Professions: **HB 679, HB 681.**

Counties and Special Districts: **SB 243, SB 134, SB 186, SB 270.**

Economic Development and Tourism: **HCR 141.**

Energy: **HB 688, SB 229, SB 230.**

Health and Welfare: **HCR 139.**

Judiciary: **HB 680.**

Labor and Industry: **HB 684, HB 687, HB 690.**

Natural Resources and Environmental Protection: **HB 674, HB 676, SB 149, SB 202.**

State Government: **HB 682, HB 683, HB 686.**

Transportation: **HB 678.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 558, HB 586.**

Health and Welfare: **HB 188.**

Energy: **HB 608, HB 637.**

Calendar

HB 527, HB 528, HB 205, HB 452, HB 572, HB 216, HB 260, HB 353, HB 363, HB 397, HB 537, HB 554, HB 573, HB 23, HB 431, HB 483, HB 560, HB 467, HB 533, HB 411, HB 410, HB 426, HJR 57, HJR 81, HJR 120, SB 31, SB 123, SB 170, SB 6, SB 7, SB 8, SB 18, SB 213, SB 214 and

SJR 36 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HJR 51 and **HCR 99** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 516, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Substitute to **HB 516**. Agreed.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 516**. Agreed.

Representative Callahan moved that **HB 516**, by way of Committee Substitute as amended, be passed.

Representative Barrows moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 516**. Rejected.

Representative Callahan moved that **HB 516**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 70, Nays 20. (See February 23, 1990 roll call on **HB 516** - Appendix.)

HB 516, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 516**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 60** has been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 9:33 a.m.)

Orders of the Day (Continued)

SB 161 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 161** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See February 23, 1990 roll call on **SB 161** - Appendix.)

SB 161 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 161** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 207, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Substitute to **HB 207**. Agreed.

Representative Little moved that **HB 207**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 23, 1990 roll call on **HB 207** - Appendix.)

HB 207, by way of Committee Substitute, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 207**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 32, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Substitute to **HB 32**. Agreed.

Representative Brown moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 32**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 32**. Agreed.

Representative Brown moved that **HB 32**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 16. (See February 23, 1990 roll call on **HB 32** - Appendix.)

HB 32, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 32**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **HB 517** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 23, 1990 roll call on **HB 517** - Appendix.)

HB 517 was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 517** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 519, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Substitute to **HB 519**. Agreed.

Representative Mason moved that **HB 519**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 79, Nays 5. (See February 23, 1990 roll call on **HB 519** - Appendix.)

HB 519, by way of Committee Substitute, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 519**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 523 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HB 523** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See February 23, 1990 roll call on **HB 523** - Appendix.)

HB 523 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 523** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471, with Committee Substitute and Committee Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved the adoption of Committee Substitute to **HB 471**. Agreed.

Representative Zimmerman moved that **HB 471**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See February 23, 1990 roll call on **HB 471** - Appendix.)

HB 471, by way of Committee Substitute, was passed.

Representative Zimmerman moved the adoption of the Committee Title Amendment to the Committee Substitute to **HB 471**. Agreed; and the title was agreed to.

Representative Zimmerman moved that the vote by which **HB 471**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 525 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that **HB 525** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 23, 1990 roll call on **HB 525** - Appendix.)

HB 525 was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 525** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 223 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 223** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 23, 1990 roll call on **HB 223** - Appendix.)

HB 223 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 223** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 510 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 510** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 23, 1990 roll call on **HB 510** - Appendix.)

HB 510 was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 510** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 436, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to **HB 436**. Agreed.

Representative LeMaster moved that **HB 436**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See February 23, 1990 roll call on **HB 436** - Appendix.)

HB 436, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 436**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 596** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 23, 1990 roll call on **HB 596** - Appendix.)

HB 596 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 596** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 511** be taken from the Clerk's Desk and placed in the Regular Orders of the Day, February 26, 1990. Agreed.

Representative Stumbo moved that **HB 577** be reassigned to the Committee on Judiciary-Civil. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Farrow moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Farrow moved the adoption of the following Legislative Citation No. 45. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends the Cynthiana Police Department for their courage, compassion and assistance offered to Summer Allan.

A frantic call for help was received by the Cynthiana Police Department. The call was made by four-year-old Summer Allan's mother. Steve McCauley, Joe Nichols and Wayne Fryman rushed to the Allan home. These police officers' quality of mind and professional skills guided them in the administration of medical attention until emergency medical assistance arrived. It is with no doubt, their quick actions prevented further serious medical problems for Summer.

This prestigious body joins Representative Mark Farrow in commending Wayne Fryman for his assistance and compassion to a small child.

Representative Farrow moved the adoption of the following Legislative Citation No. 46. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Harrison County Girl's Varsity Cheerleaders.

This body proudly salutes the members and coaches of the Harrison County Girl's Varsity Cheerleaders.

Your high standard of performance in the Cheerleading Competition held at Bourbon County High School on February 17, 1990 brought you several victories. By winning the District 37 First Place Trophy and placing First in the Tenth Region, you have claimed the honor to compete in the State Competition.

This prestigious body joins Representative Mark Farrow in congratulating the Harrison County Girl's Varsity Cheerleaders on your enthusiastic school spirit. We wish you continuous victories as you compete in Bowling Green on March 17, 1990 for the State Title.

Representative Farrow individually honored the following members of the Harrison County Girl's Varsity Cheerleaders.

Michelle Barton, Beth Herrington, Beth Lemons, Stephanie Moore, Julie Ogdin, Lyn Pretzch, Brandie Ritchie, Staci Six, Erin Weaver, Beth Wiglesworth, Kim Wright, and Coaches Linda Feeback and Linda Mattmiller.

Representative Farrow moved the adoption of the following Legislative Citation No. 47. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Matt Shorr. Matt Shorr, an eighth grader at Scott County Middle School, won the Scott County Spelling Bee. This marks the fifth consecutive year that Matt has won this competition. This accomplishment was achieved as a result of hard work, dedication and the desire to excel academically.

This prestigious body joins Representative Mark Farrow in saluting Matt Shorr for his pursuit of academic excellence.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 696, by Representative Little: AN ACT relating to motor carriers.

HB 697, by Representative Lear: AN ACT relating to policemen's and firemen's retirement.

HB 698, by Representatives Blevins, Stumbo, Scorsone, Brown, Stokes, Arnold, J. Harper, Moberly, Zimmerman, Cyrus, Ward, Strong and R. Smith: AN ACT relating to the protection of Kentucky's lakes.

HB 699, by Representative Jensen: AN ACT relating to attachments or garnishments.

HB 700, by Representatives Lear, McBee, Yates, Bronger, Priddy, L. Clark, Curtsinger, Butler, Layman, Donnermeyer, Strong, Ark and Ward: AN ACT relating to engineers and land surveyors.

HB 701, by Representatives Mason, Little, Mack, Moberly, Preston, Hatcher, Noe, Bentley, Lefevers, Noland, Lile, Todd, Casebier, Long, Blevins, Gray, Keith, Adkins, Siler, Richards, Hourigan, Pritchett and Maggard: AN ACT relating to crimes and punishments.

HB 702, by Representatives Cline and Blevins: AN ACT relating to auctions.

HB 703, by Representatives Farrow and Mullinix: AN ACT relating to retirement.

HB 704, by Representative Adkins: AN ACT relating to family care homes.

HCR 146, by Representative Burch: A CONCURRENT RESOLUTION directing a study of the need for a Department for Family and Children's Services.

HR 147, by Representative Casebier: A RESOLUTION adjourning in honor of the thirtieth anniversary of Our Lady of Consolation Catholic Church.

HJR 148, by Representatives Strong and Stumbo: A JOINT RESOLUTION directing the University of Kentucky to study the establishment of a Coal Region Economic Redirection Institute.

Report of Committees

The Committee on Rules reported **SB 175**, **HB 216**, **HB 353**, **HB 397**, **HB 410**, **HB 426**, **HB 431**, **HB 527**, **HB 528**, **HB 533**, **HB 537**, **HB 554**, **HB 573**, **HJR 57**, **HJR 81** and **HJR 120** have been posted for passage in Orders of the Day, February 26, 1990.

The Committee on Rules reported the following Consent Resolutions have been posted for passage in the Regular Orders of the Day, February 26, 1990: **HJR 51** and **HCR 99**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 467**.

Counties and Special Districts: **HB 483**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 577**, **HB 500**, **HB 602**, **HB 553**.

Agriculture and Small Business: **HB 623**.

Cities: **HB 437**.

State Government: **HB 387**, **HB 576**, **HB 578**, **HB 581**, **HB 588**, **HB 592**, **HB 603**, **HB 619**, **HB 649**, **HB 650**, **HCR 50**, **HJR 119**, **HJR 123**, **HCR 129**, **SB 29**.

Transportation: **HB 111**, **HB 209**, **HB 423**, **HB 643**, **HB 534**, **HJR 60**, **SB 52**.

Banking and Insurance: **HB 580**, **HB 605**.

Education: **HB 664, HB 669.**

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 517**, **HB 519** and **HB 523**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 30, Representative Ackerson; **HB 36**, Representative Ackerson; **HB 38**, Representative Gray; **HB 205**, Representative Reinhardt; **HB 243**, Representative Reinhardt; **HB 327**, Representative Adkins; **HB 345**, Representative Ackerson; **HB 352**, Representative Lewis; **HB 353**, Representative Lile; **HB 471**, Representative Blevins; **HB 485**, Representative Reinhardt; **HB 496**, Representative Reinhardt; **HB 509**, Representative Blevins; **HB 517**, Representative Noe; **HB 527**, Representative Donnermeyer; **HB 528**, Representative Donnermeyer; **HB 565**, Representative Lile; **HB 596**, Representative Ackerson; **HB 598**, Representatives Ridley, Stumbo; **HB 653**, Representatives White, Hatcher, Gray; **HB 657**, Representative Mack; **HB 666**, Representative Blevins; **HB 668**, Representative Stumbo; **HB 697**, Representative Napier; **HB 698**, Representative Maggard.

Representative Lyne requested that her name be withdrawn as co-sponsor to **HB 565**.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 493**, by Representative Ward:

Amend printed copy of **HB 493** on page 5, line 18, after "***basis***" by deleting the rest of line 18, all of line 19, and line 20 except for the final "."

Floor Amendment No. 6 to **HB 38**, by Representative Ackerson:

Amend printed copy of **HB 38** on page 3, below line 3, to add the following:

"Section 2. KRS 500.050 is amended to read as follows:

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.

(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one year after it is committed.

(3) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

(4) No offense in KRS Chapter 510 involving deviate sexual intercourse or sexual intercourse by the other spouse shall be prosecuted unless formally reported to the police within one (1) year after the commission of the offense. The report shall be signed by the victim of the offense.".

Floor Amendment No. 1 to **HB 332**, by Representative Johnson:

Amend printed copy of **HB 332** on page 1, below line 15, to insert the following:

"Section 2. KRS 600.020(48) is amended to read as follows:

(48) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as [~~a violation of curfew or~~] possession of alcoholic beverages ***but shall include a violation of curfew***;".

Floor Amendment No. 2 to **HB 493**, by Representative Heleringer:

Amend printed copy of **HB 493** on page 5, line 15, after "***(2)***" by inserting "***One-third (1/3) of***"; and

On page 5, line 18, after "***basis***" by deleting the rest of line 18 and all of lines 19 and 20; and

On page 5, line 18, after "***basis***" by adding "***. The remaining two-thirds (2/3) of the cost of extending lines shall be charged in equal amounts to the waterworks corporation, to be paid for out of the corporation's net earnings, and to the county fiscal court.***"; and

On page 8, line 6, after "***(7)***" by deleting the rest of line 6, all of lines 7 through 11, and line 12 through and including "***but***" and by inserting in lieu thereof "***None of the cost of extending water service under this section***"; and

On page 8, line 12, after "***shall***" by deleting "***not***".

Floor Amendment No. 1 to **HB 511**, by Representative Heleringer:

Amend printed copy of **HB 511** on page 1, line 20, after the word "***others***" by deleting the comma "***,***" and inserting a period "." in lieu thereof.

And on page 1, line 21, by deleting line 21 in its entirety.

And on page 2, line 1, by deleting lines 1 through 6 in their entirety.

Floor Amendment No. 1 to **HB 366**, by Representative Hancock:

Amend printed copy of **HB 366** on page 4, line 1, by deleting the word "***or***"; and

on page 4, line 2, by deleting the word "***second***"; and

on page 4, line 1, by inserting an opening bracket before the word "containing"; and

on page 4, line 2, by inserting a closing bracket after the word "class"; and by striking through the words between the opening and closing brackets.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 26, 1990.

The motion that the House adjourn until 4:00 p.m., Monday, February 26, 1990 was adopted by voice vote.

MONDAY, FEBRUARY 26, 1990

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Noe.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 23, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 136** and **SB 193.**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 68, HB 91, HB 239** and **HJR 19** have been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:05 p.m.)

HB 68, HB 91, HB 239 and **HJR 19** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 705, by Representative Nelson: AN ACT relating to the operation of a motorboat or other vessel while under the influence of intoxicants or similar substances.

HB 706, by Representative P. Richardson: AN ACT relating to controlled substances.

HB 707, by Representatives Gregory and Crupper: AN ACT relating to motor carriers.

HB 708, by Representative Maggard: AN ACT relating to surface coal mining operations.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 693, HB 691, HB 703, SB 257, HJR 148.**

Banking and Insurance: **SB 242, SB 273.**

Business Organizations and Professions: **HB 702, HB 700.**

Cities: **HB 695, HB 697.**

Counties and Special Districts: **SB 199, SB 200.**

Economic Development and Tourism: **HB 698.**

Education: **HB 692, HB 701, SB 261.**

Elections and Constitutional Amendments: **SB 142.**

Health and Welfare: **HB 704, HCR 146.**

Judiciary: **SB 172.**

Natural Resources and Environmental Protection: **HB 685.**

State Government: **HB 694, HB 699, HCR 144, SB 45, SB 226, SB 269.**

Transportation: **HB 696, SB 237, SB 81, SJR 58, SJR 57.**

Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 198**, **HB 453** and **SB 223** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 198, AN ACT relating to campaign practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.055 is amended to read as follows:

No candidate for nomination or election to any state, county, city or district office shall expend, pay, promise, loan or become liable in any way for money or other thing of value, ***including employment,*** either directly or indirectly, to any person in consideration of the vote or financial or moral support of that person. No such candidate shall promise, agree or make a contract with any person to vote for or support any particular individual, thing or measure, in consideration for the vote or the financial or moral support of that person in any election, primary or nominating convention, and no person shall require that any candidate make such a promise, agreement or contract.

Section 2. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein ***shall*** [~~must~~] report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) No candidate, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of one hundred dollars ($100), and all such contributions in excess of one hundred dollars ($100) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, committee, contributing organization, nor anyone on their behalf, shall accept any contribution [~~in excess of one hundred dollars ($100)~~] from any person who shall not become eighteen (18) years of age ***before the expiration of the term of office sought by the candidate for whose benefit the contribution is intended. A contribution by a minor, when permitted, shall not exceed one hundred dollars ($100). All contributions received from minors shall be reported to the registry*** [~~on or before the day of the next general election~~].

(6) No candidate, or committee or anyone acting for the candidate, shall accept a contribution of more than four thousand dollars ($4,000) from any person, permanent committee, or contributing organization in any one (1) election. No person, permanent committee or contributing organization shall contribute more than four thousand dollars ($4,000) to any one (1) candidate, or anyone acting for the candidate, in any one (1) election.

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute more than four thousand dollars ($4,000) to all permanent committees and contributing organizations in any one (1) year.

(10) No person shall contribute more than six thousand dollars ($6,000) to the state executive committee of a political party and their subdivisions and affiliates in any one (1) year.

(11) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(12) No candidate for the office of Governor shall make a personal loan to his committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000).

(13) No candidate for nomination to any state, county, city, or district office, nor committee, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate shall contribute for primary election expenses after the date of the primary.

(14) No candidate for any state, county, city or district office at a general election, nor committee, nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate shall contribute for general election expenses after the date of the general election.

(15) The provisions of subsections (13) and (14) of this section shall apply only to those candidates in a primary or election which shall be conducted subsequent to January 1, 1989.

(16) No candidate for Governor or the immediate family thereof may loan any money, service or other thing of value to his campaign, and all such moneys or services shall be deemed a contribution, which may not be recovered by the candidate, except to the extent of a total of fifty thousand dollars ($50,000).

Section 3. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). ***All contributions by minors, regardless of amount, shall be reported to the registry.*** The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(3) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be in the hands of the registry postmarked within ten (10) days after April 15 and October 15 for opposed candidates and October 15 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The Secretary of State and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section, shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to further the same political issue or to seek election to the same office.

HB 453, AN ACT relating to independent candidates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate***, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party at the time of the last preceding regular election***. This restriction shall not apply to candidates to those offices specified in KRS 118.105(4), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class or to candidates participating in nonpartisan elections.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county except as herein provided, twenty (20) petitioners. ***It shall not be necessary that*** the signatures of the petition [~~need not~~] be appended to one (1) paper. Each petitioner shall include his residence, Social Security number and post-office address. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers are legally qualified, to vote for the candidate. Except for municipal, school board and supervisor of soil and water conservation district races, petition may designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The State Board of Elections shall prescribe the forms for the petition.

SB 223, AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ballots are printed for the regular election, ***because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination,*** the governing authority of the party may provide for filling the vacancy***, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection***. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) ***If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ballots are printed for the regular election for reasons other than those specified in subsection (3) of this section, and if that party's nominee was the only candidate for the office sought, the governing authority of the party may provide for filling the vacancy.***

(5) This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections.

Section 2. Whereas, the people of the Commonwealth are entitled to fair elections free of manipulation through the use of straw candidates, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Orders of the Day

HB 352, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved the adoption of Floor Amendment No. 1 to **HB 352**. Agreed.

Representative L. Clark moved that **HB 352**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 26, 1990 roll call on **HB 352** - Appendix.)

HB 352, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 352**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 216 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **HB 216** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 26, 1990 roll call on **HB 216** - Appendix.)

HB 216 was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 216** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 431 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **HB 431** be passed.

On the roll call the vote was: Yeas 71, Nays 20. (See February 26, 1990 roll call on **HB 431** - Appendix.)

HB 431 was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 431** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 366, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Amendment No. 1 to **HB 366**. Agreed.

Representative Richards moved that **HB 366**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 26, 1990 roll call on **HB 366** - Appendix.)

HB 366, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 366**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 528 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 528** be passed.

On the roll call the vote was: Yeas 75, Nays 12. (See February 26, 1990 roll call on **HB 528** - Appendix.)

HB 528 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 528** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 527, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Substitute to **HB 527**. Agreed.

Representative Callahan moved that **HB 527**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 81, Nays 5. (See February 26, 1990 roll call on **HB 527** - Appendix.)

HB 527, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 527**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 537, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walker moved the adoption of Committee Amendment No. 1 to **HB 537**. Agreed.

Representative Walker moved that **HB 537**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 26, 1990 roll call on **HB 537** - Appendix.)

HB 537, as amended, was passed and the title agreed to.

Representative Walker moved that the vote by which **HB 537**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 332, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 332**. Agreed.

Representative Kerr moved that **HB 332**, as amended, be passed.

On the roll call the vote was: Yeas 78, Nays 12. (See February 26, 1990 roll call on **HB 332** - Appendix.)

HB 332, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 332**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 493, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Committee Amendment No. 1 to **HB 493**. Agreed.

Representative Heleringer moved that **HB 493**, as amended, be passed.

Representative Ward moved the adoption of Floor Amendment No. 1 to **HB 493**. Rejected.

On the roll call the vote was: Yeas 70, Nays 18. (See February 26, 1990 roll call on **HB 493** - Appendix.)

HB 493, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 493**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 173, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Substitute to **HB 173**. Agreed.

Representative Barrows moved that **HB 173**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 26, 1990 roll call on **HB 173** - Appendix.)

HB 173, by way of Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 173**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 161** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:52 p.m.)

Orders of the Day (Continued)

HB 410, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 410**. Agreed.

Representative B. Smith moved that **HB 410**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See February 26, 1990 roll call on **HB 410** - Appendix.)

HB 410, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 410**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 397 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 397** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 26, 1990 roll call on **HB 397** - Appendix.)

HB 397 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 397** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 554 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 554** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 26, 1990 roll call on **HB 554** - Appendix.)

HB 554 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 554** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 533, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of Committee Amendment No. 1 to **HB 533**. Agreed.

Representative Rapier moved that **HB 533**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 26, 1990 roll call on **HB 533** - Appendix.)

HB 533, as amended, was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 533**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 573 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 573** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 26, 1990 roll call on **HB 573** - Appendix.)

HB 573 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 573** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 57 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **HJR 57** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 26, 1990 roll call on **HJR 57** - Appendix.)

HJR 57 was passed and the title agreed to.

Representative Mason moved that the vote by which **HJR 57** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 81 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HJR 81** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 26, 1990 roll call on **HJR 81** - Appendix.)

HJR 81 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HJR 81** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 120 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HJR 120** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 26, 1990 roll call on **HJR 120** - Appendix.)

HJR 120 was passed and the title agreed to.

Representative Little moved that the vote by which **HJR 120** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 51 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HJR 51** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 26, 1990 roll call on **HJR 51** - Appendix.)

HJR 51 was passed and the title agreed to.

Representative Curd moved that the vote by which **HJR 51** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 99 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HCR 99** be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See February 26, 1990 roll call on **HCR 99** - Appendix.)

HCR 99 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HCR 99** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 709, by Representative Long: AN ACT relating to the Cabinet for Human Resources.

HB 710, by Representative Donnermeyer: AN ACT relating to abortions.

HB 711, by Representative B. Richardson: AN ACT relating to lobbyists.

HB 712, by Representative Layman: AN ACT relating to motor vehicles.

HB 713, by Representatives Ford and Napier: AN ACT relating to auctions and auctioneers.

HB 714, by Representative Morris: AN ACT relating to financial administration.

HB 715, by Representative Curd: AN ACT relating to education.

HB 716, by Representative Clarke: AN ACT relating to the filing of Kentucky corporation income tax returns.

HB 717, by Representative Clarke: AN ACT relating to debt.

HB 718, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 719, by Representative Cyrus: AN ACT relating to the Kentucky Insurance Guaranty Association.

HB 720, by Representatives Mack, Turner, Mason and Hatcher: AN ACT relating to long-term care.

HB 721, by Representative Clarke: AN ACT relating to the organization of the Revenue Cabinet.

HB 722, by Representative Clarke: AN ACT relating to sales and use tax exemption of machinery for new and expanded industry.

HB 723, by Representative Little: AN ACT relating to boat titling and registration.

HB 724, by Representative Little: AN ACT relating to limousines.

HB 725, by Representative Clarke: AN ACT relating to reveune and taxation.

HB 726, by Representatives Nett and Bronger: AN ACT relating to state boards and committees.

HB 727, by Representative Mason: AN ACT relating to coal mining.

HB 728, by Representatives Blevins, Moberly, Richards, Hancock and B. Smith: AN ACT relating to universities.

HB 729, by Representative Blevins: AN ACT relating to operator's licenses.

HB 730, by Representative Reinhardt: AN ACT relating to school districts.

HB 731, by Representatives Walker and McBee: AN ACT relating to retirement.

HB 732, by Representatives Bronger, Yates, Priddy and Rapier: AN ACT relating to alcoholic beverages.

HB 733, by Representatives Yates and Bronger: AN ACT relating to highways.

HB 734, by Representative Long: AN ACT relating to school readiness and making an appropriation.

HB 735, by Representative Deskins: AN ACT relating to workers' compensation.

HB 736, by Representatives Moberly, Gray, Lile, Todd and Casebier: AN ACT relating to hazardous waste site permitting.

HB 737, by Representative Lyne: AN ACT relating to education.

HB 738, by Representative Freibert: AN ACT relating to enterprise zones.

HB 739, by Representatives Napier, J. Harper and Ford: AN ACT relating to handicapped parking permits.

HB 740, by Representative Napier: AN ACT relating to distribution of decedents' estates.

HB 741, by Representative Worthington: AN ACT relating to reorganization of the Department of Agriculture.

HJR 149, by Representative Blevins: A JOINT RESOLUTION supporting full formula funding of state-supported higher education and expansion of nursing education programs.

HJR 150, by Representative Blevins: A JOINT RESOLUTION directing the Cabinet for Economic Development to establish and continue the statewide Wood Industry Leadership Commission.

HR 151, by Representative Barrows: A RESOLUTION adjourning the House of Representatives in memory of L. D. Sweazy.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **HB 254, HCR 139**.

Labor and Industry: **SB 57, HB 687**.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representative Ark; **HB 256**, Representative White; **HB 337**, Representative McBee; **HB 397**, Representative Ackerson; **HB 506**, Representative Donnermeyer; **HB 541**, by Representative Blevins; **HB 598**, Representative Cline; **HB 710**, Representatives Callahan, Kerr, K. Harper; **HR 151**, Representative White.

Representative Barrows requested that he be withdrawn as co-sponsor of **HB 436**.

Representative Casebier moved the adoption of the following **HR 147**:

HR 147, A RESOLUTION adjourning in honor of the thirtieth anniversary of Our Lady of Consolation Catholic Church.

WHEREAS, Our Lady of Consolation Catholic Church held its first Mass at 10801 Deering Road, Louisville, Kentucky, on March 6, 1961; and

WHEREAS, Our Lady of Consolation Catholic Church has been a pillar of strength to the Louisville Catholic community for thirty years, offering successful programs for Boy Scouts, Girl Scouts, the St. Vincent dePaul Society, Alcoholics Anonymous, and other well-meaning programs that inspire the development of good Christian attitudes and behavior; and

WHEREAS, Our Lady of Consolation Catholic Church has been an active participant in providing support to impoverished individuals and families through the Southwest Community Ministries, an ecumenical organization; and

WHEREAS, Father James Schook is admired for his guidance and wisdom, and his congregation is indeed blessed to receive the peace and joy he so lovingly gives; and

WHEREAS, Our Lady of Consolation Catholic Church is celebrating thirty years of ministering to the Louisville Catholic community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body recognizes the thirtieth anniversary of Our Lady of Consolation Catholic Church, and congratulates her for bringing inspiration and guidance to the Louisville Catholic community.

Section 2. That when the House of Representatives adjourns this day, Friday, February 23, 1990, it does so in honor of the thirtieth anniversary of Our Lady of Consolation Catholic Church.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Father James Schook, Our Lady of Consolation Catholic Church, 10801 Deering Road, Louisville, Kentucky 40272.

HR 147 was adopted by voice vote.

Representative Turner moved the adoption of the following **HR 142**:

HR 142, A RESOLUTION adjourning the House of Representatives in memory and honor of James Fugate.

With deepest respect, we pay homage and tribute to the memory of James Fugate.

WHEREAS, James Fugate, a native of Six-Mile Creek, Perry County, Kentucky, was born on July 15, 1941, and traversed these earthly bounds on Tuesday, February 20, 1990; and

WHEREAS, James Fugate was the son of Granville and Vina Miller Fugate; and

WHEREAS, James Fugate was the loving husband of Gerema Combs Fugate, and the adored father of Margaret Kay Fugate and Granville Lee Fugate; and

WHEREAS, the death of James Fugate has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement upon the passing of James Fugate, and commend his loved ones to the solace of the Almighty during these dark and painful days.

Section 2. That when the House of Representatives adjourns this day, Thursday, February 22, 1990, it does so in memory and honor of James Fugate.

Section 3. That the Clerk of the House of Representatives is directed to transmit four copies of this resolution to Mrs. Gerema Combs Fugate, P.O. Box 132, Dice, Kentucky 41736.

HR 142 was adopted by voice vote.

Representative Barrows moved the adoption of the following **HR 151**:

HR 151, A RESOLUTION adjourning the House of Representatives in memory of L. D. Sweazy.

WHEREAS, L. D. Sweazy was an integral part of Woodford County's business and professional life; and

WHEREAS, L. D. Sweazy was a devoted husband and father; and

WHEREAS, L. D. Sweazy was a past president of the Kentucky Bankers Association and a former member of the executive council of the American Bankers Association; and

WHEREAS, L. D. Sweazy served his God as a member of the United Methodist Church and served his fellow man with his travails for Union College; and

WHEREAS, L. D. Sweazy's foresight and dedication to the cause of the United Way enriched the lives of countless friends and neighbors; and

WHEREAS, L. D. Sweazy's devotion to the progress and the modernization of the Woodford Memorial Hospital and Good Samaritan Hospital shall remain as lasting monuments to his life; and

WHEREAS, L. D. Sweazy's tireless efforts as a community leader brought a quality of life to Woodford County that is unrivaled within the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does recognize the rich, full memory that L. D. Sweazy leaves behind.

Section 2. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Monday, February 26, 1990, it does so in honor of L. D. Sweazy.

Section 3. That copies of this resolution be forwarded to Mrs. Helen Dever Sweazy and to Nancy Helen Mayer.

HR 151 was adopted by voice vote.

Representative Ward moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ward moved that he be recorded as voting "yea" on **HB 173**. Agreed.

Representative Casebier moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Casebier moved that he be recorded as voting "nay" on **HB 32**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that his vote be changed from "yea" to "nay" on **HB 397** and "yea" on **HB 332**, **HB 366**, **HB 431**, **HB 528**, **HB 533**, **HB 573**. Agreed.

Representative Butler moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Butler moved that he be recorded as voting "yea" on **HB 298**, **HB 65**, **HB 271**, **HB 33**, **HB 229**, **HB 354**, **HB 194**, **HB 389**, **HB 238**, **HB 46**, **HCR 75**, **SB 126**, **SB 127**, **SB 128**, **HB 14**, **HB 433**, **SB 53**, **SB 54**, **SB 56**, **SB 59**, **SB 61**, **SB 62**, **HB 84**, **HB 369**, **HB 311**, **HB 73**, **HB 438**, **HB 60**, **HB 386**, **HB 39**, **HB 53**, **HB 372**, **HB 373**, **HB 245**, **HB 247**, **HB 272**, **HB 301**, **HB 310**, **HB 342**, **HB 365**, **HB 388**, **HB 394**, **HB 422**, **HB 424**, **HB 484**, **HR 130**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to **HB 511**, by Representative Scorsone:

Amend printed copy of **HB 511** on page 18, lines 1 and 2,

By deleting "***except that the standard of proof shall be by clear and convincing evidence.***" and inserting in lieu thereof "***including the burden of proof beyond a reasonable doubt.***"

And on page 24, line 17, by deleting "***five (5)***" and inserting in lieu thereof "***two (2)***".

And on page 25, lines 13 and 14, by deleting "***clear and convincing evidence.***" and inserting in lieu thereof "***evidence beyond a reasonable doubt.***"

Floor Amendment No. 3 to **HB 511**, by Representative Heleringer:

Amend printed copy of **HB 511** on page 1, line 20, after the word "***others***" by deleting the comma "," and inserting a period "." in lieu thereof.

And on page 1, line 21, by deleting line 21 in its entirety.

And on page 2, line 1, by deleting lines 1 through 6 in their entirety.

And on page 3, line 3, by deleting the word "***available***".

And on page 7, lines 11-26, by deleting SECTION 4 in its entirety and by renumbering the remaining sections to conform.

And on page 16, line 19, after the word "***respondent's***" by inserting "***parent or***".

And on page 16, lines 19-20, by deleting "***or a representative of the respondent's family,***" and inserting in lieu thereof "***at the expense of the parent or guardian,***".

And on page 21, line 26, by deleting "***Section 9***" and inserting in lieu thereof "***Section 8***".

And on page 22, lines 12 and 13, by deleting "***KRS 31.070***" and inserting in lieu thereof "***KRS 620.100 (1) (a)***".

Floor Amendment No. 1 to the Committee Substitute to **HB 426**, by Representative Ark:

Amend printed copy of HCS to **HB 426** on page 4, after line 1 and before line 2, by inserting:

"***(3) Any bank located in a county in which a combined bank is operated as a branch of a bank whose principal office is located in another county may establish and operate branches in the county in which the principal office of the combined bank is located, subject to the approval of the commissioner as provided in KRS 287.180(2).***"

On page 4, line 2, by deleting "***(3)***" and inserting in lieu thereof "***(4)***".

Floor Amendment No. 2 to the Committee Substitute to **HB 426**, by Representative Worthington:

Amend printed copy of HCS to **HB 426** on page 4, after line 22, by inserting:

"Section 2. KRS 287.040 is amended to read as follows:

(1) Any five (5) or more persons may organize a banking corporation.

(2) Any ***five (5)*** [~~seven (7)~~] or more persons may organize a corporation for the purpose of conducting a trust business.

(3) Any ***five (5)*** [~~seven (7)~~] or more persons may organize a corporation for the purpose of conducting a combined banking and trust business.

(4) The board of directors of a banking corporation, trust corporation or combined bank and trust corporation shall be no less than the required number of incorporators."

Floor Amendment No. 1 to **SB 175**, by Representative Hancock:

Amend printed copy of **SB 175** on page 5, following line 12, by inserting:

*"**(7) A person shall not commit an offense when enforcing in the official line of duty the provisions of KRS 525.130.**"*

Floor Amendment No. 2 to **SB 122**, by Representative Stumbo:

Amend printed copy of **SB 122** on page 2, after line 26, by adding the following:

"Section 3. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except ***a retail gas facility owned or controlled by a county prior to and in operation as of January 1, 1990 or*** a city who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;

(4) "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(13) "Commission" means the public service commission of Kentucky;

(14) "Commissioner" means one (1) of the members of the commission."

Floor Amendment No. 1 to **HB 375**, by Representative Northup:

Amend printed copy of **HB 375** on page 7, after line 25, add the following:

"Section 5. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the revenue cabinet;

(3) For tax years beginning on or after January 1, 1982, except as otherwise provided in this section, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1985, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employe pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employe; and

(e) Exclude social security and tier I railroad retirement benefits subject to federal income tax;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year; and

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code

as modified by KRS 141.0101 and by section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h); and

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an administrative body of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained.

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once; and

(e) Exclude expenses related to "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an administrative body of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group or establishment or

any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained.

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in section 528(c) of the Internal Revenue Code, means "taxable income" as defined in section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year.

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;.

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in section 3401(f) and section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections."

The Clerk announced the following meetings:

The Committee on Natural Resources and Environmental Protection, 12 noon, February 27, 1990.

The Committee on Energy, 9:00 a.m., February 27, 1990.

The Budget Review Subcommittee on Transportation, 12 noon, February 27, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 27, 1990.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Lewis, Little, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noland, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 2—LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 27, 1990

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. Ray Tower, Meade County Baptist Church, Brandenburg.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Noe.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 26, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 30**, **SB 233**, **SB 240**, **SCR 72**, **HB 112** with Committee Amendment attached thereto, **HB 433** with Committee Amendment attached thereto, **HB 62**, **HB 167**, **HB 172**, **HB 311**, **HB 372** and **HB 438**.

Introduction of Bills and Resolutions

HB 742, by Representative Farrow: AN ACT relating to airport construction and renovation.

HB 743, by Representatives Hancock, Crupper, Arnold, Turner, Todd, Gedling, Gregory, Long, Moberly, Barrows and Scorsone: AN ACT relating to the development and promotion of new agricultural products and markets, providing funding therefor, making an appropriation and declaring an emergency.

HB 744, by Representative Hancock: AN ACT relating to the Department of Fish and Wildlife Resources.

HB 745, by Representative Lewis: AN ACT relating to insurance.

HB 746, by Representative A. Jones: AN ACT relating to state officials.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 714, HB 716, HB 717, HB 721, HB 722, HB 725, HB 738, SB 193.**

Business Organizations and Professions: **HB 713, HB 732, SB 136.**

Cities: **HB 731.**

Economic Development and Tourism: **HJR 150.**

Education: **HB 715, HB 728, HB 730, HB 734, HB 737, HJR 149.**

Health and Welfare: **HB 709, HB 710, HB 720, HB 726.**

Judiciary: **HB 706, HB 740.**

Labor and Industry: **HB 718, HB 719, HB 735.**

Natural Resources and Environmental Protection: **HB 708, HB 727, HB 736.**

State Government: **HB 711, HB 741.**

Transportation: **HB 705, HB 707, HB 712, HB 723, HB 724, HB 729, HB 733, HB 739.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 695, HB 697.**

Report of Committees

The Committee on Rules reported **HB 509**, **HB 363**, **HB 572**, **SB 135**, **SB 176**, **SB 185**, **SB 6**, **SB 7**, **SB 8**, **SB 18**, **SB 31**, **SB 123**, **SB 170**, **SB 213**, **SB 214** and **SJR 36** have been posted for passage in Orders of the Day, February 28, 1990.

The Committee on Agriculture and Small Business reported **HB 623** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 623, AN ACT relating to farming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires, the term:

(1) "Agricultural land" means land used for farming;

(2) "Farming" means the cultivation of land for the production of agricultural crops; livestock or livestock products; poultry or poultry products; milk or dairy products; or fruit or other horticultural products. It shall not include the following:

(a) Production of timber or forest products;

(b) Contracts by which a processor or distributor of farm products or supplies provides spraying, harvesting, or other farm services;

(c) Experimentation related to the production of pesticides, herbicides, or insecticides;

(d) Production of seed stock; and

(e) Equine industry, including breeding, training, boarding, racing, and sales;

(3) "Family farm" means an unincorporated farming unit owned by one (1) or more persons residing on the farm or actively engaged in farming;

(4) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by the majority of the stockholders who are members of a family related to each other within the third degree of kindred, and at least one (1) of whose stockholders is a person residing on or actively operating the farm, and none of whose stockholders are corporations. A family farm corporation shall not cease to qualify by reason of any devise or bequest of shares of voting stock; and

(5) "Authorized farm corporation" means a corporation whose shareholders do not exceed ten (10) in number, whose shareholders are all natural persons or estates, whose shares are all of one (1) class, and whose revenues from rent, royalties, dividends, interest, and annuities do not exceed twenty percent (20%) of its gross receipts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS Chapter 271B, no domestic or foreign corporation shall engage in farming, except as provided in Section 3 of this Act. Nor shall any corporation, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or capable of being used for farming, except as provided in Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The provisions of Section 2 of this Act shall not apply to:

(1) Agricultural land and land capable of being used for farming which:

(a) Was owned by a corporation on the effective date of this Act, including the normal expansion of ownership at a rate not to exceed twenty percent (20%), measured in acres, in any five (5) year period; or

(b) Is leased by a corporation in an amount, measured in acres, not to exceed the acreage under lease to the corporation on the effective date of this Act and the additional acreage required for normal expansion at a rate not to exceed twenty percent (20%) in any five (5) year period; and

(c) The additional acreage necessary to meet the requirements of pollution control regulations;

(2) A family farm corporation or an authorized farm corporation;

(3) Any national or state chartered bank or trust company authorized to conduct business in this Commonwealth when operating a farm as a trustee or as an administrator or executor of an estate;

(4) A bona fide encumbrance taken for purposes of security;

(5) Agricultural lands acquired by a corporation by process of law in the collection of debts; or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise. All lands so acquired shall be disposed of within ten (10) years after acquiring the title thereto, and the land so acquired shall not be used for farming during the ten (10) year period except under a lease to a family farm unit, a family farm corporation, or an authorized farm corporation. The ten (10) year limitation period shall be deemed a convenant running with the title to the land against any corporate grantee, assignee, or the successor of the corporation;

(6) Gifts of agricultural lands, either by grant or devise, to any nonprofit corporation;

(7) A state-supported farm operated for teaching, research, or experimental purposes, and the commercial sales from the farm shall be incidental to the teaching, research, or experimental objectives; and

(8) Agricultural land acquired by a corporation other than a family farm corporation or authorized farm corporation for immediate or potential use in nonfarming purposes. A corporation may hold agricultural land in the acreage as may be necessary to its nonfarm business operation. Pending the development of agricultural land for nonfarm purposes, the land shall not be used for farming except under lease to a family farm unit, a family farm corporation, or an authorized farm corporation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation engaged in farming or proposing to commence farming shall file with the Secretary of State a report containing:

(1) The name of the corporation and its place of incorporation;

(2) The address of the registered office of the corporation in this Commonwealth, the name and address of its registered agent in this Commonwealth, and in the case of a foreign corporation, the address of its principal office in its place of incorporation;

(3) The acreage and location listed by county of each lot or parcel of land in this Commonwealth owned or leased by the corporation and used for farming; and

(4) The names and addresses of the officers and the members of the board of directors of the corporation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The report of a corporation seeking to qualify as a family farm corporation or an authorized farm corporation shall contain, in addition:

(1) The number of shares owned by persons residing on the farm or actively engaged in farming, and their relatives within the third degree of kindred;

(2) The name, address, and number of shares owned by each shareholder; and

(3) A statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No corporation shall commence farming until the Secretary of State has inspected the report required by Section 4 of this Act and certified that its proposed operations comply with the provisions of Sections 4 and 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Every corporation, except as provided in subsection (2) of this section, engaged in farming shall, prior to April 15 of each year, file with the Secretary of State a report containing the information required in Sections 4 and 5 of this Act based upon its operations in the preceding calendar year and its status at the end of the year.

(2) A corporation certified by the Secretary of State as a qualified family farm corporation or as a qualified authorized farm corporation shall report as required by Sections 4 and 5 of this Act by April 15 of the fifth year following certification.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

If the Attorney General has reason to believe that a corporation is in violation of this Act, he shall commence an action in the Circuit Court in which any agricultural lands relative to that violation are situated, or if situated in two (2) or more counties, in any county in which a substantial part of the lands are situated. If the court finds that the lands in question are being held in violation of this Act, it shall enter an order so declaring.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall file any order under Section 8 of this Act for record with the county clerk of each county in which any portion of the lands are located. Thereafter, the corporation owning the land shall have a period of five (5) years from the date of the order to divest itself of the lands. This five (5) year limitation period shall be deemed a covenant running with the title to the land against any corporate grantee, assignee, or the successor of the corporation. Any lands not so divested within the time prescribed shall be sold at public sale in the manner prescribed by order of the court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation which fails to file any report required under the provisions of this Act or willfully files false information on any report required under the provisions of this Act shall be fined not more than one thousand dollars ($1,000).

Section 11. This Act shall be known as the Family Farm Act of 1990.

The Committee on Agriculture and Small Business reported **HB 458** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 458, AN ACT relating to small business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.957 is amended to read as follows:

Any person desiring to open a new business or additional business locations in the Commonwealth after July 13, 1984***, including any person required to register and collect Kentucky use tax under the provisions of KRS 139.340,*** is required to obtain a general business license. This license shall be valid for the duration of the new business or additional location, but shall expire upon discontinuation of the new business or additional location or upon a change of ownership. This license shall be administered by the revenue cabinet and the maximum fee for this license shall be ten dollars ($10). The revenue cabinet shall retain one dollar ($1.00) of the fee to cover its administrative cost and the remaining fees shall be deposited in a trust and agency account and shall be used by the clearinghouse in performing its assigned duties. The clearinghouse may administer the general business license and collect the fee for the master application and licensure program.

The Committee Substitute to **HB 458** is as follows:

HB 458, AN ACT relating to small business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.957 is amended to read as follows:

Any person desiring to open a new business or additional business locations in the Commonwealth after July 13, 1984***, including any person required to obtain a seller's permit as provided in KRS 139.240 and any person required to register and collect Kentucky use tax under the provisions of KRS 139.340,*** is required to obtain a general business license. This license shall be valid for the duration of the new business or additional location, but shall expire upon discontinuation of the new business or additional location or upon a change of ownership. This license shall be administered by the revenue cabinet and the maximum fee for this license shall be ten dollars ($10). The revenue cabinet shall retain one dollar ($1.00) of the fee to cover its administrative cost and the remaining fees shall be deposited in a trust and agency account and shall be used by the clearinghouse in performing its assigned duties. The clearinghouse may administer the general business license and collect the fee for the master application and licensure program.

The Committee on Energy reported **HB 608** and **HB 637** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 608, AN ACT relating to deposits for water service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 74 IS CREATED TO READ AS FOLLOWS:

A water district organized under this chapter shall pay interest at a rate no greater than it receives in interest and at no time shall the interest payable to the customer exceed six percent (6%) annually on amounts required to be deposited by patrons to secure water accounts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

A water association formed for the purpose of furnishing water services to the general public pursuant to this chapter shall pay interest at a rate no greater than it receives in interest and at no time shall the interest payable to the customer exceed six percent (6%) annually on amounts required to be deposited by patrons to secure water accounts.

HB 637, AN ACT relating to the Board of Claims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

(1) The Board of Claims, created by KRS 44.070, is hereby vested with full power, authority and jurisdiction to investigate, hear proof and compensate persons for damages sustained to either person or property as approximate result of negligence on the part of any municipality, or any of its officers, agents or employees while acting within the scope of their employment by the municipality, or any agency thereof, relating to the maintenance by the municipality of state-owned traffic control devices pursuant to a contract with the Commonwealth.

(2) Claims for personal injury or property damage against any municipality, or any of its officers, agents or employees while acting within the scope of their employment of the municipality, arising out of negligence in the maintenance of state-owned traffic control devices pursuant to a contract with the Commonwealth, shall be limited and reduced in the same manner as described in KRS 44.070 with respect to claims against the Commonwealth.

(3) It is the intention of subsections (1) and (2) of this section to provide every municipality and agency thereof, and their respective officers, agents or employees with the same liability protection, restrictions and reductions when such municipalities and agencies are performing maintenance on state-owned traffic control devices pursuant to a contract with the Commonwealth as the Commonwealth and its agencies, officers and employees would enjoy if performing the work itself.

The Committee on State Government reported **HB 581, HB 619** with Committee Amendment attached thereto, **HJR 119, HJR 123, HCR 129, SB 29** and **SB 68** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 581, AN ACT relating to the official Tug-of-War Championship of the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.260 is amended to read as follows:

The ***Fordsville (Ohio County)*** [~~Nelson County Fair~~] Tug-of-War Championship Contest is named and designated as the Kentucky State Tug-of-War Championship.

HB 619, AN ACT relating to state government and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 41.350 is amended to read as follows:

(1) Cancelled checks of the State Treasurer upon state depository banks [~~and permanent records of paperless entries debiting state accounts transmitted to the state treasurer by state depositories~~] shall be ***microfilmed and the original check*** preserved by the State Treasurer for a period of ***one (1) year*** [~~seven (7) years~~]. At the expiration of ***this*** [~~that~~] period, unless required for the purpose of an action then pending, the checks shall be sold as waste paper or destroyed. ***Microfilm reproductions of Treasury Department checks shall be preserved for a period of five (5) years. Microfilm reproductions of warrants shall be preserved for a period of five (5) years.***

(2) Microfilm reproductions of electronic fund transfer entries debiting state accounts transmitted to the State Treasurer by state depositories shall be preserved by the State Treasurer for a period of five (5) years. At the expiration of this period, unless required for the purpose of an action then pending, they may be destroyed.

Section 2. Whereas, due to the limited storage space available to the State Treasurer for storing original copies of state checks, particularly during the renovation of the New Capitol Annex, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 619** is as follows:

Amend printed copy of **HB 619** on page 2, following line 1, by inserting:

"Section 2. KRS 41.345 is amended to read as follows:

(1) Treasury checks and records that are susceptible to photostatic reproduction may be proved as to foundation, identity and authenticity without any preliminary testimony, by use of legible and durable copies, certified in the manner provided herein by the State Treasurer as custodian of the originals. The copies may be used in any trial, hearing, deposition or any other judicial or administrative action or proceeding, whether civil or criminal, in lieu of the original checks or records[~~, which the treasurer shall hold available during the pendency of the action or proceeding for inspection and comparison by the court, tribunal or hearing officer and by the parties and their attorneys of record~~].

(2) When a subpoena duces tecum is served upon the State Treasurer requiring the production of any checks or records at any action or proceeding, it is sufficient if the State Treasurer, as custodian of the original thereof, promptly notifies, in writing, the attorney for the party causing service of the subpoena, of the State Treasurer's election to proceed under the provisions of this section. Upon notification, the attorney causing the service of the subpoena shall notify all other attorneys of record, or other parties if they are not represented by attorneys, of the State Treasurer's procedure. Following notification, the State Treasurer as custodian of the checks or records specified in the subpoena [~~shall hold the originals available and~~] shall promptly deliver, by certified mail, legible and durable copies, certified by the State Treasurer, of checks or records specified in the subpoena. The certification shall be signed before a notary public by the State Treasurer as custodian of the records."; and

On line 2, following the word "Section" by deleting "2" and inserting in lieu thereof "3".

HJR 119, A JOINT RESOLUTION to honor and memorialize the late Robert Penn Warren.

WHEREAS, Robert Penn Warren was born in Guthrie, Todd County, Kentucky, on April 24, 1905; and

WHEREAS, Robert Penn Warren spent an idyllic childhood and adolescence in Guthrie, and on a farm near Cerulean Springs, Kentucky; and

WHEREAS, during Robert Penn Warren's Kentucky youth, he developed his passion for learning and thinking under the guidance of his father, Robert Franklin Warren, a banker; his mother, Anna Ruth Penn Warren, a schoolteacher; and his maternal grandfather, Gabriel Thomas Penn, a tobacco farmer who surrounded himself with books; and

WHEREAS, Robert Penn Warren enrolled at Vanderbilt University at the age of 16, immersing himself in his studies and joining the literary circle known as The Fugitives before graduating summa cum laude; and

WHEREAS, Robert Penn Warren continued his brilliant academic success at the University of California, Yale University, and Oxford University which he attended as a Rhodes Scholar; and

WHEREAS, Robert Penn Warren's devotion to academia exhibited itself in his becoming a professor of English, ultimately at Yale University, and writing college textbooks, two of which, *Understanding Poetry* and *Understanding Fiction*, trained a generation of students how to read a work of literature; and

WHEREAS, Robert Penn Warren founded and edited the *Southern Review*; and

WHEREAS, Robert Penn Warren established himself as America's pre-eminent man of letters through his masterful efforts as a lyric poet, narrative poet, novelist, biographer, historian, essayist, scholar, playwright, short story writer, and editor; and

WHEREAS, in his early manhood and middle age, Robert Penn Warren demonstrated rarely matched poetical gifts which then deepened in the last three decades of his life, thus prompting critics to place him in the company of the handful of poets such as Browning, Hardy, Yeats, and Stevens who triumphed in old age; and

WHEREAS, Robert Penn Warren was awarded three Pulitzer Prizes, one for his novel ***All The King's Men*** in 1947, another for his book of poems ***Promises*** in 1958, and yet another for his book of poems ***Now and Then*** in 1979; and

WHEREAS, he is the only author ever to have received both a Pulitzer Prize for fiction and a Pulitzer Prize for poetry; and

WHEREAS, the literary world presented Robert Penn Warren with numerous other awards; and

WHEREAS, Robert Penn Warren was elected in 1959 to the American Academy of Arts and Letters and in 1975 to the American Academy of Arts and Sciences; and

WHEREAS, Robert Penn Warren was our nation's first poet laureate; and

WHEREAS, Robert Penn Warren taught the world about Kentucky and Kentuckians about themselves; and

WHEREAS, Robert Penn Warren was one of the greatest Kentuckians of the twentieth century; and

WHEREAS, on September 15, 1989, Robert Penn Warren stepped into eternity, bequeathing an oeuvre to instruct, delight, chasten, and redeem an eternity of readers;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the General Assembly reveres Robert Penn Warren and expresses its heartfelt sympathy to Robert Penn Warren's family.

Section 2. That the Kentucky Heritage Council designate Robert Penn Warren's birthplace a Kentucky Landmark and issue a Kentucky Landmark Certificate to the Committee for the Preservation of the Robert Penn Warren Birthplace in Todd County, Inc.

Section 3. That the Kentucky Historical Society and the Transportation Cabinet work together to erect a Kentucky Historical Highway Marker at an appropriate location near Robert Penn Warren's birthplace in Guthrie, Todd County, Kentucky.

Section 4. That copies of this resolution be sent to Robert Penn Warren's beloved wife Eleanor Clark, the Committee for the Preservation of the Robert Penn Warren Birthplace in Todd County, Inc., the mayor of Guthrie, Kentucky, the executive director of the Kentucky Heritage Council, the director of the Kentucky Historical Society, and the secretary of the Transportation Cabinet.

HJR 123, A JOINT RESOLUTION creating a legislative task force on sentences and sentencing practices, making an appropriation therefor, and declaring an emergency.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is established a legislative Task Force on sentences and sentencing practices. This task force shall consist of sixteen (16) members. The members shall be appointed by the Legislative Research Commission, for a two-year period beginning in May, 1990. The membership shall reflect a broad representation of individuals and agencies with vested interests in state corrections. The members shall consist of a representative from each of the following organizations or constituencies:

(a) Attorney General's Office;

(b) Parole Board;

(c) Corrections Cabinet;

(d) Commonwealth's Attorney's Association;

(e) County Attorney's Association;

(f) Jailers Association;

(g) Department of Public Advocacy;

(h) Law enforcement agency;

(i) Circuit Court Judge or retired Circuit Court Judge;

(j) House Appropriations and Revenue Committee;

(k) House Judiciary Committee;

(l) Senate Appropriations and Revenue Committee;

(m) Senate Judiciary Criminal Committee;

(n) Statewide victim's group;

(o) Criminal justice or law school faculty member;

(p) General public.

These members shall serve two (2) year terms.

(2) If a vacancy occurs, the appointing authority shall make an appointment to become effective immediately for the unexpired term. The members of the task force shall elect a chair from their membership as well as a vice chair to service in the absence of the chair.

Section 2. (1) The task force shall meet regularly as determined by the chair or at the written request of at least ten (10) members of the task force.

(2) The task force shall, with the assistance of appropriate Legislative Research Commission staff:

(a) Review the structure of punishments prescribed by the Kentucky Revised Statutes for appropriateness and consistency;

(b) Investigate sentencing, probation and parole trends in Kentucky;

(c) Investigate the impact of various sentence requirements and sentencing practices upon Kentucky's prison population;

(d) Investigate disparities in sentences between different jurisdictions in Kentucky and in the treatment of men, women and racial and ethnic minorities;

(e) Investigate the use of and determine the effectiveness of alternatives to incarceration including, but not limited to, intensive and advanced supervision programs and parole for probation, home-incarceration, rehabilitation treatment and counseling, work-release, and community service;

(f) Make recommendations concerning sentencing and parole options to the Governor, secretary of the Corrections Cabinet, Attorney General and the Court of Justice;

(g) Provide the Corrections Commission with an interim report on its findings;

(h) Propose legislation based on its findings during the 1992 General Assembly.

(3) The members of this task force may request the data necessary to complete this task. The data collection shall be guided by a methodologically sound research design developed in conjunction with professionals with expertise in research and corrections theory and practice.

(4) The members of this committee shall be entitled to necessary expenses and twenty-five thousand dollars ($25,000) from the general fund is appropriated to the task force to be used for data collection, analysis, and the preparation of the findings of this study.

Section 3. In order to give the task force the maximum amount of time possible to complete its work, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor.

HCR 129, A CONCURRENT RESOLUTION recognizing April 22, 1990, to be "Earth Day" in the Commonwealth of Kentucky.

"We do not inherit the earth from our parents, we borrow it from our children."

WHEREAS, almost twenty years ago, more than twenty million Americans joined together on Earth Day in a demonstration of concern for the environment; and

WHEREAS, this environmental event increased public awareness of the Earth's deterioration and resulted in the creation of new legislation protecting the Earth's air, water, and land; and

WHEREAS, despite environmental improvements, the health of the planet continues to be threatened by human activities; and

WHEREAS, Earth Day 1990 activities and events will educate citizens on the importance of acting in an environmentally sensitive fashion by recycling, conserving energy and water, using efficient transportation, and adopting more ecologically sound lifestyles; and

WHEREAS, Earth Day 1990 has more than a thousand affiliated organizations planning activities in more than 120 countries; and

WHEREAS, Earth Day 1990 is a call to action for all citizens to join in a global effort to better understand the planet in order to make wise decisions for the future;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That April 22, 1990, is recognized as "Earth Day" in the Commonwealth of Kentucky.

Section 2. That all state parks, state universities, and state agencies are encouraged to provide assistance in programs to improve environmental awareness and understanding of the planet.

Section 3. That all citizens of the Commonwealth of Kentucky are urged to join in a monumental, cooperative effort to look deeply at their own lives and ask whether their values, habits, and attitudes are compatible with the sustainable future we need to build.

Section 4. That copies of this resolution be transmitted to all Cabinet Secretaries and state universities of the Commonwealth of Kentucky, and to Earth Day 1990, P.O. Box AA, Stanford University, Stanford, California 94305.

SB 29, AN ACT relating to state symbols.

WHEREAS, the red-brown or orange Viceroy butterfly, found throughout the Commonwealth, is widely admired by Kentuckians; and

WHEREAS, the Viceroy butterfly in its caterpillar stage does not harm the foliage of the poplars and willows upon which it feeds and is therefore no threat to human interests; and

WHEREAS, the Viceroy butterfly thus lives in appealing harmony with its required food plants and with humans; and

WHEREAS, the Viceroy is known for its imitation of the Monarch butterfly, which is distasteful to predators; and

WHEREAS, the delicate and evanescent beauty of the Viceroy butterfly holds a special charm for gardeners, hikers, and other nature lovers; and

WHEREAS, it is therefore fitting that a state noted for its natural beauty and its great outdoors should have a state butterfly;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

"The viceroy butterfly is named and designated as the state butterfly."

SB 68, AN ACT relating to certificate of need and licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(3) "Applicant" means any person, health facility, or health service requesting a certificate of need or license.

(4) "Cabinet" means the Cabinet for Human Resources [~~which functions as the state health planning and development agency~~].

(5) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance ***or is not for investment purposes only***; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(6) "Capital expenditure minimum" means ***one million five hundred thousand dollars ($1,500,000)*** [~~six hundred thousand dollars ($600,000) for the twelve (12) month period~~] beginning July 15, ***1990*** [~~1980,~~] and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by ***the*** [~~such~~] facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(7) "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, to substantially change the bed capacity or to substantially change a health service as covered by this chapter.

(8) "Commission" means the Commission for Health Economics Control in Kentucky.

(9) "Committee" means the Kentucky Health Care Cost Containment Advisory Committee.

(10) [~~"Federal Act" means the National Health Planning Resources Development Act of 1974, P.L. 93-641, and subsequent amendments.~~

~~(11)~~] "Formal review process" means the ninety (90) day certificate of need review conducted by the commission.

(11)[~~(12)~~] "Health facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, ***physical rehabilitation hospitals, chemical dependency programs,*** tuberculosis hospitals, skilled nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance services, non-emergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and free standing hemodialysis units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

[~~(13) "Health maintenance organization" means a public or private organization, organized under KRS 304.38-010 to 304.38-200, which:~~

~~(a) Is a qualified health maintenance organization under the federal act; or~~

~~(b) 1. Provides or otherwise makes available to enrolled participants health services, including at least the following basic health services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage;~~

~~2. Is compensated,~~ [~~(~~]~~except for co-payments,~~[~~)~~] ~~for the provision of the basic health services listed in subparagraph 1. of this paragraph to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and~~

~~3. Provides physicians' services primarily;~~

~~a. Directly through physicians who are either employes or partners of such organization; or~~

~~b. Through arrangements with individual physicians or one (1) or more groups of physicians (organized on a group practice or individual practice basis).~~

~~(14) "Health service area" means a particular geographical area designated by the Governor as a health service planning area.~~]

(12)[~~(15)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

[~~(16) "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the Governor.~~]

(13)[~~(17)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum except that ***the*** [~~such~~] term does not include medical equipment acquired by or on behalf of a medical laboratory. For purposes of this paragraph, "medical equipment expenditure minimum" means ***one million five hundred thousand dollars ($1,500,000)*** [~~four hundred thousand dollars ($400,000) for the twelve (12) month period~~] beginning July 15, ***1990*** [~~1982~~] and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

(14)[~~(18)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(15) "Non-clinically related expenditures" means expenditures for:

(a) Repairs, renovations, alterations and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to the following:

1. Parking facilities;

2. Telecommunications or telephone systems;

3. Management information systems;

4. Ventilation systems;

5. Heating or air conditioning, or both;

6. Energy conservation; or

7. Administrative offices.

[~~(19) "Operating cost expenditure minimum" means two hundred fifty thousand dollars ($250,000) for the twelve (12) month period beginning July 15, 1982, and as adjusted annually thereafter.~~]

(16)[~~(20)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(17)[~~(21)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state or political subdivision or instrumentality [~~(~~]including a municipal corporation[~~)~~] of a state.

(18)[~~(22)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of [~~a local health planning agency,~~] the cabinet or the commission;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for [~~a local health planning agency,~~] the cabinet or the commission regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for [~~a local health planning agency,~~] the cabinet or the commission;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the commission or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the commission.

(19)[~~(23)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

(20)[~~(24)~~] "State health plan" means the document ***prepared triannually, updated annually and*** duly adopted by the state health planning council and approved by the Governor.

(21)[~~(25)~~] "State health planning council" means the ***Council for Health Services established under KRS 194.090*** [~~statewide health coordinating council or a state health planning agency established and designated by the Governor~~].

(22)[~~(26)~~] "Substantial change in a health service" means*:*

(a) The addition of a [~~clinically related service not previously provided in the health facility which entails an annual operating cost which exceeds the operating cost expenditure minimum, or The addition of a~~] health service for which there ***are review criteria and standards in*** [~~is a component of~~] the state health plan*;*[~~, or~~]

(b) The addition of a health service subject to licensure under this chapter*;*[~~,~~] or

(c) The reduction or termination of a health service which had previously been provided in the health facility.

(23)[~~(27)~~] "Substantial change in bed capacity" means the addition, reduction, relocation or redistribution of beds by licensure classification within a health facility.

(24) "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation.

(25)[~~(28)~~] "To acquire" means to obtain from another by purchase, ***transfer,*** lease or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition ***shall be*** [~~is~~] deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, ***transferred,*** leased or acquired by comparable arrangement by one person from another person.

(26)[~~(29)~~] To "batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities or equipment affecting the same health service area.

(27)[~~(30)~~] "To establish" means to construct, develop, or initiate a health facility.

(28)[~~(31)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in ***the*** [~~such~~] contract have been met. An option to purchase or lease which is not binding, shall not be considered an enforceable contract.

(29)[~~(32~~ To offer" means, when used in connection with health services, to hold a health facility [~~or~~

~~health maintenance organization~~] out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes***;***[~~,~~] state veterans' nursing homes***; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; non-clinically related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital;*** or non-conforming ambulance services as defined by administrative regulation. ***These listed facilities or services shall be subject to licensure, when applicable.***

(2) ***The provisions of this chapter that relate to the issuance of a certificate of need shall not apply, after September 15, 1991, to licensed acute care hospitals, as defined by administrative regulation, in counties with more than 3,000 acute care hospital beds, except as these provisions relate to long term care beds.***

(3) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists and other practitioners of the healing arts***; except*** [~~, provided that~~] no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, ***if the*** [~~provided that such~~] facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination;

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time[~~; and~~

~~(g) Personal care homes, as defined in KRS 216.750(2), located in any county containing over seven hundred fifty (750) square miles. If the local public health officer makes the determination that any personal care home with under sixteen (16) beds, in such county, maintains adequate safety and health standards the Cabinet for Human Resources shall issue a license to operate the personal care home~~].

Section 3. KRS 216B.040 is amended to read as follows:

(1) The commission shall have four (4) separate and distinct functions:

(a) To approve or deny certificates of need in accordance with the provisions of this chapter, except as to those applications which have been granted nonsubstantive review status by the chairman;

(b) To issue and to revoke certificates of need;

(c) To provide a due process hearing and issue a final determination on all actions by the cabinet to deny, revoke, modify or suspend licenses of health facilities and health services issued by the cabinet; and

(d) To enforce, through legal actions on its own motion, the provisions of this chapter and its orders and decisions issued pursuant to its functions.

(2) The commission shall:

(a) Issue administrative regulations through the secretary:

1. To establish the certificate of need review procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles.

2. To establish criteria for issuance and denial of certificates of need which shall be limited to the following considerations:

a. Consistency with plans. The proposal ***may*** [~~should~~] be consistent with the state health plan. [~~Consideration should be given to other applicable appropriately adopted plans developed by local health planning agencies. In case of inconsistency between the state health plan and other plans considered, the state health plan shall prevail.~~] The fact that the state health plan does not address the specific type of proposal being reviewed ***shall*** [~~does~~] not constitute grounds for disapproval of the proposal;

b. Need and accessibility. The proposal ***shall*** [~~should~~] meet an identified need in a defined geographic area and be accessible to all residents of the area;

c. Interrelationships and linkages. The proposal ***shall*** [~~should~~] serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, accompanied by assurance of effort to achieve comprehensive care, proper utilization of services and efficient functioning of the health care system;

d. Costs, economic feasibility, and resources availability. The proposal, when measured against the cost of alternatives for meeting needs, ***shall be*** [~~is~~] judged to be an effective and economical use of resources, not only [~~in terms~~] of capital investment, but also [~~in terms of~~] ongoing requirements for health manpower and operational financing; ***and***

e. Quality of services. The applicant ***shall*** [~~should~~] be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services[~~; and~~

~~f. Special needs and circumstances of health maintenance organizations. In the case of a health maintenance organization or an ambulatory care facility or health facility controlled directly or indirectly by a health maintenance organization, the proposal should be consistent with the special needs and circumstances of health maintenance organizations.~~

~~3. To define a substantial change in a project which will require a subsequent review of an approved certificate of need and to establish a procedure for conducting such subsequent review~~].

(b) Conduct public hearings, as requested, in respect to certificate of need applications, revocations of certificates of need, and denials, suspensions, modifications, or revocations of licenses.

(3) The commission ***may*** [~~shall have the authority to~~]:

(a) Issue [~~such~~] other administrative regulations through the secretary [~~as are~~] necessary for the proper administration of its functions;

(b) Administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the commission, and ***the*** [~~such~~] process shall extend to all parts of the Commonwealth. Service of process in all proceedings brought before or initiated by the commission may be made by certified mail, or in the same manner as other process in civil cases, as the commission directs;

(c) Establish by administrative regulation reasonable application fees for certificates of need;

(d) Appoint technical advisory committees as are deemed necessary to administer its functions under the provisions of this chapter; and

(e) Establish a mechanism for issuing advisory opinions to prospective applicants for certificates of need regarding the requirements of a certificate of need.

Section 4. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) Establish by administrative regulation under KRS Chapter 13A reasonable application fees for licenses and issue other administrative regulations necessary for the proper administration of the licensure function;

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter; and

(c) Establish licensure standards and procedures to ensure safe, adequate and efficient health facilities and health services. These regulations, under KRS Chapter 13A, shall include but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel and minimum standards for maintaining patient records;

2. Licensure application and renewal procedures; and

3. Classification of health facilities and health services according to type, size, range of services and level of care.

(2) The cabinet ***may*** [~~shall have authority to:~~

~~(a) Approve or deny certificates of need, when nonsubstantive review status has been granted, after considering the criteria as established by the commission and staff recommendations and, when applicable, recommendations of the local health planning agency.~~

~~(b)~~] authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated by the commission and the cabinet.

Section 5. KRS 216B.061 is amended to read as follows:

(1) Unless otherwise provided in this chapter, no person shall do any of the following without first obtaining a certificate of need:

(a) Establish a [~~new~~] health facility;

(b) Obligate a capital expenditure which exceeds the capital expenditure minimum;

(c) Make a substantial change in the bed capacity of a health facility;

(d) Make a substantial change in a health service;

(e) ***Make a substantial change in a project;***

(f) Acquire major medical equipment;

(g)[~~(f)~~] Alter a geographical area ***or alter a specific location*** which has been designated on a certificate of need or license;

(h)[~~(g)~~] Transfer an approved certificate of need for the establishment of a new health facility or the replacement of ***a licensed*** [~~an existing~~] facility.

(2) No person shall separate portions of a single project into components in order to evade any expenditure minimum set forth in this chapter. For purposes of this chapter, the acquisition of one (1) or more items of functionally related diagnostic or therapeutic equipment shall be considered as one (1) project.

(3) No person shall have ex parte contact with any member of the commission regarding a certificate of need application from the commencement of the review cycle to the final decision. In the event an ex parte contact occurs, it shall be promptly made a part of the record.

(4) No person shall obligate a capital expenditure in excess of the amount authorized by an existing certificate of need unless he has received an administrative escalation from the commission as prescribed by regulation.

(5) No person shall proceed to obligate a capital expenditure under an approved certificate of need if there has been a substantial change in the project.

(6) A certificate of need ***shall be*** [~~is~~] issued for a specific location and, when applicable, for a designated geographical area.

Section 6. KRS 216B.065 is amended to read as follows:

(1) Before any person enters into a contractual agreement to acquire ***a licensed*** [~~an existing~~] health facility [~~which arrangements will require the obligation of a capital expenditure which exceeds the capital expenditure minimum, or to acquire major medical equipment~~], ***the*** [~~such~~] person shall notify the commission of the person's intent to acquire ***the*** [~~such a~~] facility or major medical equipment and of the services to be offered in the facility and its bed capacity or the use of such medical equipment. The notice shall be in writing and shall be filed at least thirty (30) days prior to entry into a contract to acquire the health facility [~~or major medical equipment~~] with respect to which the notice is given.

(2) A certificate of need shall be required for the acquisition of a health facility [~~or major medical equipment,~~] only if:

(a) The notice required in this section is not filed ***and the arrangement will require the obligation of a capital expenditure which exceeds the capital expenditure minimum***; or

(b) The commission finds within thirty (30) days after the date it received [~~such~~] notice that the health services or bed capacity of the health facility will be substantially changed in being acquired[~~, or in the case of major medical equipment, the equipment will be used to provide services for inpatients of a health care facility~~].

(3) Donations***, transfers*** and leases of major medical equipment and health facilities shall be considered acquisitions of equipment and facilities, and an acquisition of medical equipment or a facility for less than fair market value shall be considered an acquisition if the fair market value exceeds the expenditure minimum.

(4) Before any health facility reduces or terminates a health service or reduces its bed capacity, the facility shall notify the commission of its intent. The notice shall be in writing and shall be filed at least thirty (30) days prior to the reduction or termination. A certificate of need shall be required for the reduction or termination only if the notice required in this section is not filed.

Section 7. KRS 216B.085 is amended to read as follows:

(1) Any time no later than ***fifteen (15)*** [~~thirty (30)~~] days after the date the review commences, any affected person may request a public hearing. Hearings shall be before a quorum of the commission, or, at the request of the chairman, before a member of the commission designated by the chairman to serve as hearing officer [~~and shall be in addition to any hearing which may have been conducted before a local health planning agency~~]. The hearing officer shall be authorized to administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in ***the*** [~~such~~] proceedings.

(2) ***If*** [~~In the event~~] a hearing is requested, the chairman shall set a date, time and place for a public hearing. Reasonable notice of the hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the commission.

(3) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the hearing and may conduct reasonable cross examination under oath of persons who make factual allegations relevant to such matters. A full and complete record shall be maintained of the hearing[~~, and all testimony shall be reported but need not be transcribed unless the commission's decision is appealed pursuant to this chapter~~].

(4) Any decision of the commission to issue or deny a certificate of need shall be based solely on the record established with regard to the matter. All decisions granting, denying or modifying a certificate of need shall be made by the commission in writing and shall be recorded in the minutes of the commission. The commission shall notify the parties to the proceedings of the decision and the decision shall be final for purposes of judicial appeal unless a request for reconsideration is filed. An approved certificate of need shall be issued forty (40) days after notice of the commission's decision unless a request for reconsideration is filed or a judicial appeal is taken ***and issuance is enjoined by the court.***

Section 8. KRS 216B.086 is amended to read as follows:

(1) The commission may revoke a certificate of need***, or portion thereof,*** for failure of the holder of the certificate to implement the project in accordance with timetables ***and standards*** for implementation established by administrative regulation of the commission. The commission shall give notice to the holder of the certificate of its initial decision to revoke the certificate of need ***or portion thereof.*** The commission's initial decision to revoke a certificate of need ***or portion thereof*** shall become final after thirty (30) days unless a hearing is requested. The chairman shall give notice to the holder of the certificate of a decision which has become final under the provisions of this subsection.

(2) The holder of the certificate of need to be revoked may request in writing a public hearing in respect to an initial decision by the commission to revoke a certificate of need within thirty (30) days of the date of notice of ***the*** [~~such~~] initial decision. Failure to request a hearing shall constitute a waiver of any right to reconsideration or judicial appeal of a final commission decision to revoke a certificate of need.

(3) The hearing shall be before the commission, or at the request of the chairman, before a member of the commission designated by the chairman to be the hearing officer. The hearing shall be no later than thirty (30) days after the request for the hearing is filed.

(4) In the event a hearing is requested, the chairman shall set a date, time and place for a public hearing. Reasonable notice of ***the*** [~~such~~] hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the commission.

(5) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the revocation of the certificate of need, and may conduct reasonable cross-examination under oath of persons who testify. A full and complete record shall be maintained of the hearing, and all testimony shall be ***recorded*** [~~reported~~] but [~~need~~] not be transcribed unless the commission's final decision is appealed pursuant to this chapter.

(6) After the issuance of an initial decision to revoke a certificate of need and before a final decision is made, no person shall have ex parte contacts with members of the commission regarding the revocation. In the event an ex parte contact occurs, it shall be promptly made a part of the record.

(7) If a hearing is requested after notice of the commission's initial decision to revoke a certificate of need, the commission shall make a final decision at its next regularly scheduled meeting after the hearing. Any final decision revoking a certificate of need shall be made by the commission in writing and shall be recorded in the minutes of the commission. The commission shall notify the parties to the proceedings of the final decision.

(8) Any final decision of the commission to revoke a certificate of need shall be based solely on the record established with regard to the revocation.

(9) Except as provided in subsection (1) of this section, reconsideration pursuant to KRS 216B.090 or judicial appeal pursuant to KRS 216B.115 is available with regard to a final decision of the commission to revoke a certificate of need.

Section 9. KRS 216B.090 is amended to read as follows:

(1) Any party to the proceedings may, for good cause shown, request in writing a hearing for purposes of reconsideration of a decision of the commission pertaining to a certificate of need or the revocation of a certificate of need under such procedures as are promulgated by administrative regulation. The request shall be filed within fifteen (15) days of the notice of the decision [~~and the commission shall consider the request at its next regularly scheduled meeting~~]. For purposes of this section there shall be deemed to be "good cause shown" if the request for a public hearing:

(a) Presents significant, relevant information not previously available for consideration by the commission; [~~or~~]

(b) Demonstrates that there have been significant changes in the factors or circumstances relied upon by the commission in reaching its decision; [~~or~~]

(c) Demonstrates that the commission has materially failed to follow its adopted procedures in reaching its decision***; or***

(d) States that a public hearing pursuant to KRS 216B.085 was not conducted prior to a decision to deny a certificate of need.

(2) If a public hearing is granted, it shall be held within thirty (30) days after the decision to grant the request for reconsideration. The hearing shall be conducted in accordance with the provisions of this chapter. The commission shall make its decision on reconsideration [~~at its next regularly scheduled meeting after the public hearing,~~] and shall give notice thereof. The decision of the commission shall be final for purposes of judicial appeal. An approved certificate of need shall be issued forty (40) days after notice of the commission's decision unless a judicial appeal is taken ***and issuance is enjoined by the court.***

Section 10. KRS 216B.095 is amended to read as follows:

(1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review as provided below. The chairman shall grant or deny nonsubstantive review status within ***ten (10)*** [~~fifteen (15)~~] days of the date the application is deemed completed and shall give notice to all affected persons of the decision to conduct a nonsubstantive review. Any affected person other than the applicant may request a hearing by filing a request with the commission within ***ten (10)*** [~~fifteen (15)~~] days of the notice to conduct a nonsubstantive review. As applicable, hearings shall be conducted as provided in KRS 216B.085. Based solely upon the record established with regard to the matter, the ***commission*** [~~cabinet~~] shall approve or deny a certificate of need on all projects assigned nonsubstantive review status within ***thirty-five (35)*** [~~forty-five (45)~~] days of the determination of nonsubstantive review status. If the application is denied nonsubstantive review status, it ***shall*** [~~will~~] automatically be placed in the formal review process.

(2) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next cycle of the formal review process. Nothing in this subsection shall require an applicant to pursue a formal review before obtaining judicial review pursuant to KRS 216B.115.

(3) The chairman shall grant nonsubstantive review status to an application for a certificate of need which is required:

(a) ***To change the location of a proposed health facility;***

(b) To replace or relocate a licensed health facility provided there is no substantial change in health services or substantial change in bed capacity; [~~In emergency circumstances which, if not promptly acted upon, would pose a threat to the health and safety of the patients. Emergency circumstances shall include acts of God, fire, vandalism, structural or mechanical failure and other similar situations. Any applicant acting under this subsection may proceed to relieve circumstances threatening the health and safety of the patients, provided the cabinet is consulted prior to such action and the application is submitted within thirty (30) days of the occurrence of the emergency; or~~

~~(b) To eliminate or prevent imminent safety hazards as defined by federal, state, or local fire, building, or life safety codes or regulations; or~~

~~(c) To comply with licensure standards; or~~

~~(d) To comply with accreditation standards compliance with which is required to receive reimbursements under title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under title XIX of such Act; or~~]

(c) [~~(e)~~] To replace or repair worn equipment provided such worn equipment shall have been used by the applicant in a health facility for five (5) years or more; [~~or~~]

(d) For cost escalations;

(e) For change of ownership when applicable;

(f) To establish an industrial ambulance service; or

(g) In other circumstances the commission by regulation may prescribe.

[~~(f) To make repairs, alterations or improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in health services, or the addition of equipment. In no event shall Repairs, alterations or improvements be construed to mean the replacement or the relocation of a health facility; or~~

~~(g) In such other circumstances as the commission may by regulation prescribe.~~]

(4) Notwithstanding any other provision to the contrary in this chapter, the ***commission*** [~~cabinet~~] shall approve a certificate of need for a project required for the purposes set out in (a) through ***(g)*** [~~(d)~~] of subsection (3) hereof unless it finds the facility or service with respect to which ***the*** [~~such~~] capital expenditure is proposed to be made is not in fact so required; or to the extent the facility or services contemplated by the proposed capital expenditure is addressed in the state health plan, the ***commission*** [~~cabinet~~] finds that ***the*** [~~such~~] capital expenditure is not consistent with the state health plan.

(5) The decision of the ***commission*** [~~cabinet~~] approving or denying a certificate of need pursuant to this section shall be final for purposes of judicial appeal unless the applicant requests the application be placed in the formal review process. An approved certificate shall be issued ***thirty (30)*** [~~forty (40)~~] days after notice of the ***commission's*** [~~cabinet's~~] decision, unless a judicial appeal is taken ***and issuance is enjoined by the court.***

Section 11. KRS 216B.115 is amended to read as follows:

(1) An appeal to the Franklin Circuit Court may be taken from any final decision of the commission or cabinet with respect to a certificate of need application, a certificate of need, or a license, by any party to the proceedings.

(2) An appeal may be taken by filing a petition for review in the Franklin Circuit Court within thirty (30) days after notice of the final decision[~~.~~] ***unless*** a request for reconsideration ***has been filed, in which case the petition shall be filed within fifteen (15) days*** [~~filed pursuant to KRS 216B.090 shall toll the time for filing a judicial appeal until notice~~] of the commission's decision not to reconsider or notice of its decision on reconsideration [~~is given~~]. The petition shall state completely the grounds upon which the review is sought and shall assign all errors relied upon. The petitioner shall serve a copy of the petition to each person who was a party to the proceedings. Summons shall be issued upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. The commission or cabinet shall, upon being served with the summons and within thirty (30) days thereafter, file a copy of the record, duly

certified by the cabinet or the chairman of the commission, the cost of the record to be taxed as costs upon appeal. In lieu of filing of ***the*** [~~such~~] record, an abstract thereof may be filed if all parties to the appeal agree.

Section 12. KRS 216B.120 is amended to read as follows:

(1) Each party to the proceedings may participate as a party in the proceedings in the circuit court on an appeal.

(2) In case of an appeal, no new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the decision or order; the court shall hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determining whether the commission or cabinet acted within its jurisdiction, whether the decision or order was procured by fraud, and whether the findings of fact in issue are supported by substantial evidence and are not clearly erroneous based upon a review of the record as a whole.

(3) The court shall enter judgment affirming, modifying, reversing or setting aside the decision or, in its discretion, remanding the case to the commission or cabinet for proceedings in conformity with the directions of the court. ***If the court affirms the issuance of the certificate of need, the holder of the certificate shall be entitled to recover its costs of defense of the appeal, including its attorney's fees.***

(4) Any party to the judicial appeal may appeal from the Circuit Court to the Court of Appeals in accordance with the Kentucky Rules of Civil Procedure.

Section 13. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary of the Cabinet for Human Resources shall allocate available funds to the mental health-mental retardation boards or nonprofit organizations for disbursement during the fiscal year in accordance with [~~such~~] approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the operations, budgets and expenditures of the various programs; and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. He may withdraw funds from any program, or component part thereof, which is not being operated and administered in accordance with its approved plan and budget, and the policies and regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480.

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and regulations of the cabinet, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonprofit organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including but not limited to their financial record keeping, their personnel management operations and their financial and program reporting; and

(b) Make [~~whatever~~] personnel changes [~~are~~] deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the cabinet.

(4) Any community mental health-mental retardation board to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the cabinet for human resources thirty (30) days prior to ***the*** [~~such~~] anticipated action by the secretary. ***The*** [~~Such~~] notification shall be by means of a letter from the secretary to the chairman of the mental health-mental retardation board in question and shall state the reasons for such anticipated action. Following ***the*** [~~such~~] notification the mental health-mental retardation board may:

(a) Comply with the secretary's action without contesting it; or

(b) Apply for a public hearing before ***a hearing officer appointed by the secretary*** [~~the Statewide Health~~

~~Coordinating Council (SHCC) created pursuant to P.L. 93-641~~] to show cause why ***the*** [~~such~~] action should not stand. ***The*** [~~Such~~] application shall be made within seven (7) days of the receipt of ***the*** [~~such~~] letter from the secretary. The public hearing shall be held [~~before a hearing officer designated by the SHCC~~] within ten (10) days of the application by the mental health-mental retardation board for such hearing. The hearing officer shall ***submit*** [~~prepare~~] a written finding of facts, conclusions of law and recommendation to the ***secretary*** [~~SHCC~~] within ten (10) days after the date of the hearing. [~~This finding of facts, conclusions of law and recommendation shall be filed with~~] The secretary [~~who~~] shall ***consider*** [~~call a special meeting of the SHCC for the purpose of considering~~] the hearing officer's findings and recommendation and ***make*** [~~making~~] a ruling thereon.

Section 14. KRS 214.450 is amended to read as follows:

As used in this Act unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood or blood products to any health care facility, health service, or health care provider.

(3) "Communicable disease" means only a communicable disease which may be transmitted by blood and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(4) "Health facility" means any health facility set forth under KRS 216B.015(11) which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015***(12)***[~~(14)~~] and which provides for the transfusion of blood into a living human body.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood.

Section 15. KRS 194.090 is amended to read as follows:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the cabinet shall have the following structure:

(1) There is hereby created, within the cabinet, a Citizens' Commission for Human Resources.

(a) The [~~citizens'~~] commission [~~for human resources~~] shall advise the Governor, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the health, welfare, manpower, and other human service needs of the citizens of the Commonwealth of Kentucky and the health, welfare, manpower, and other human service programs developed and operated by the Commonwealth of Kentucky to address those needs. The [~~citizens'~~] commission [~~for human resources~~] shall also advise the secretary for human resources on the identification of service needs, the formulation of policy, the development of program alternatives, the evaluation of program proposals, the determination of program priorities, the allocation of resources, proposed state and federal legislation, and proposed state and federal administrative regulations.

(b) The [~~citizens'~~] commission [~~for human resources~~] shall be composed of no more than fifteen (15) members appointed by the Governor. The members of the [~~citizens'~~] commission [~~for human resources~~] shall be chosen to broadly represent public interest groups concerned with the human service programs operated by the Cabinet for Human Resources, professionals involved in the delivery of human services, minority groups, recipients of human services provided by the state, and the general public. The Governor shall appoint the chairman of the [~~citizens'~~] commission [~~for human resources~~] upon the recommendation of the secretary for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the [~~citizens'~~] commission [~~for human resources~~]. The [~~citizens'~~] commission [~~for human resources~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the [~~citizens'~~] commission [~~for human resources~~] or the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(2) There is hereby created within the Cabinet for Human Resources a Council for Health Services.

(a) The council [~~for health services~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for health services, and other officials of the Commonwealth on policy matters concerning the delivery of health services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council [~~for health services~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide health services ***and to advise the cabinet on the development and content of the state health plan.***

(b) The council [~~for health services~~] shall be composed of no more than nineteen (19) citizen members appointed by the Governor. ***Ten (10)*** members of the council [~~for health services~~] shall be chosen to broadly represent public interest groups concerned with health services, [~~professionals involved in the delivery of health services,~~] recipients of health services provided by the state, minority groups, and the general public. ***Nine (9) members of the council shall represent providers of health care and not less than one-half (1/2) of the providers shall be direct providers of health care. At least one (1) of the direct providers of health care shall be a person engaged in the administration of a hospital and one (1) shall be a physician in active practice. Nominations for health care provider members of the council shall be solicited from recognized health care provider organizations. Membership of the council shall be geographically distributed in order that each area development district is represented. Members shall serve for terms of three (3) years. If a vacancy occurs, the person appointed as a replacement shall serve only for the remainder of the vacated term. Members shall serve until the time their successors have been appointed. No member shall serve for more than two (2) consecutive terms. The chairman of the council shall be elected by a vote of the council.*** [~~The Governor shall appoint the chairman of the council for health services who by virtue of his appointment shall also serve as one (1) of the voting members of the citizens' commission for human resources.~~] The secretary for human resources and the commissioner for health services shall be nonvoting ex officio members of the council [~~for health services~~], and the commissioner for health services shall be staff director for, and secretary to the council [~~for health services~~]. The council [~~for health services~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for health services. A majority of the appointed members shall constitute a quorum.

(3) There is hereby created within the Cabinet for Human Resources a Council for Social Insurance.

(a) The council [~~for social insurance~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for social insurance, and other officials of the Commonwealth on policy matters concerning the delivery of social alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council [~~for social insurance~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide income maintenance and supplementation services.

(b) The council [~~for social insurance~~] shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the council [~~for social insurance~~] shall be chosen to broadly represent public interest groups concerned with social insurance programs operated by the Commonwealth, minority groups, the poor, recipients of social insurance services provided by the state and the general public. The Governor shall appoint the chairman of the council [~~for social insurance~~], who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources and the commissioner for social insurance shall be nonvoting ex officio members of the council [~~for social insurance~~], and the commissioner for social insurance shall be staff director for and secretary to the council [~~for social insurance~~]. The council [~~for social insurance~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social insurance. A majority of the appointed members shall constitute a quorum.

(4) There is hereby created within the Cabinet for Human Resources a Council for Social Services.

(a) The council [~~for social services~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for social services, and other officials of the Commonwealth on policy matters concerning the delivery of social services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council [~~for social services~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide social services.

(b) The council [~~for social services~~] shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the council [~~for social services~~] shall be chosen to broadly represent public interest groups concerned with social services, professionals involved in the delivery of social services, minority groups, the disadvantaged, recipients of social services provided by the state, and the general public. The Governor shall appoint the chairman of the council [~~for social services~~], who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources and the commissioner for social services shall be nonvoting ex officio members of the council [~~for social services~~], and the commissioner for social services shall be staff director for, and secretary to, the council [~~for social services~~]. The council [~~for social services~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social services. A majority of the appointed members shall constitute a quorum.

(5) There is hereby created within the Cabinet for Human Resources a State Job Training Coordinating Council which for administrative and support purposes shall be attached to the Department for Employment Services.

(a) The council shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for employment services, and other officials of the Commonwealth on policy matters concerning the delivery of manpower services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide manpower services.

(b) The council shall review the operation of programs conducted in each service delivery area and the availability, responsiveness, and adequacy of state services, and shall prepare reports and make recommendations to the Governor to improve these programs. The council shall furthermore do all necessary to comply with Public Law No. 97-300, the Job Training Partnership Act of 1982, and it shall execute [~~such~~] other manpower and training responsibilities not enumerated in Public Law No. 97-300 [~~as~~] determined by the Governor, the secretary for human resources or the commissioner of the Department for Employment Services.

(c) The council shall consist of at least twenty-five (25) members who shall be appointed by the Governor and who shall serve for a term of four (4) years or until such time as a successor is appointed and qualified except that upon initial appointment eight (8) of the members shall serve for a term of one (1) year, eight (8) of the members shall serve for a term of two (2) years, and nine (9) of the members shall serve for a term of three (3) years. ***If*** [~~In the event of~~] a vacancy ***occurs*** the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employe of state government. The commissioner of the Department for Employment Services or his designee shall serve as secretary of the council. The Department for Employment Services shall provide the council with professional, technical and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the commissioner of the Department for Employment Services and notice of [~~such~~] meetings shall be either in writing or by telephone. For the purpose of conducting business, one-half (1/2) of the membership, excluding any vacancies, shall constitute a quorum.

(6) There is hereby created within the Cabinet for Human Resources an Institute for Aging.

(a) The institute [~~for aging~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged. The institute [~~for aging~~] shall be primarily concerned with identifying special needs of the aged and advising the secretary for human resources on how the cabinet may integrate its various programs and services to yield the maximum possible benefit for the aged. The institute [~~for aging~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to the aged.

(b) The institute [~~for aging~~] shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the institute [~~for aging~~] shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chairman of the institute [~~for aging~~], who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the institute [~~for aging~~]. The institute [~~for aging~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(7) There is hereby created within the Cabinet for Human Resources an Institute for Children.

(a) The institute [~~for children~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to children, adolescents, and the developmentally disabled. The institute [~~for children~~] shall be primarily concerned with identifying the special needs of these clientele groups and advising the secretary on how the Cabinet for Human Resources may integrate its various programs and services to yield the maximum possible benefit for children, adolescents, and the developmentally disabled. The institute [~~for children~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to these clientele groups.

(b) The institute [~~for children~~] shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the institute [~~for children~~] shall be chosen to broadly represent public interest groups concerned with the needs of children, adolescents, and the developmentally disabled, professionals involved in the delivery of services to these clientele groups, minority groups, recipients of state-provided services to these clientele groups, and the general public. The Governor shall appoint a chairman of the institute [~~for children~~] who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the institute [~~for children~~]. The institute [~~for children~~] shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

SECTION 16. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

There is hereby created a Task Force on Health Care Cost and Quality for the purpose of studying the implementation of Sections 1 through 12 of this Act. The task force members shall be appointed by the Governor on the effective date of this Act. The task force shall include a reasonable number of members and shall include but not be limited to chief executive officers of non-profit health insurance organizations and for-profit and not-for-profit health care institutions and prominent citizens with an interest in health care cost containment. The task force shall be co-chaired by the mayor of the largest city within and county judge/executive of any county containing more than 3,000 acute care hospital beds. The task force shall hold its first meeting no later than July 30, 1990 and shall meet at least bimonthly. The task force shall forward a report of its findings and recommendations to the Secretary of the Cabinet for Human Resources and to the Legislative Research Commission no later than December 31, 1991.

Section 17. The following KRS sections are repealed:

216B.070 Application for exemption to be filed with commissioner.

216B.075 Administrative regulations governing application and review procedures to be promulgated.

The House Committee Substitute to **SB 68** is as follows:

SB 68, AN ACT relating to certificate of need and licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.010 is amended to read as follows:

(1) The General Assembly finds that the licensure of health facilities and health services ***in counties not containing a city of the first class as defined by Section 156 of the Constitution of Kentucky*** is a means to insure that the citizens of ***those counties*** [~~this Commonwealth~~] will have safe, adequate and efficient medical care; that the proliferation of unnecessary health care facilities, health services and major medical equipment ***in those counties*** results in costly duplication and underuse of such facilities, services and equipment; and that such proliferation increases the cost of quality health care within ***counties not containing a city of the first class as defined by Section 156 of the Constitution of Kentucky*** [~~the Commonwealth~~]. Therefore, it is the purpose of this chapter to provide for the establishment of the Commission for Health Economics Control in Kentucky for the purpose of acting on applications for certificates of need.

(2) The General Assembly further finds and determines as matter of public policy and legislative fact that:

(a) Competition in the acute care hospital marketplace in counties containing cities of the first class as defined by Section 156 of the Constitution of Kentucky is profoundly superior to regulation in accomplishing the General Assembly's objectives identified in this section in that marketplace;

(b) Competition, as opposed to regulation in counties containing cities of the first class as defined by Section 156 of the Constitution of Kentucky, is particularly necessary to the development, construction, expansion, and implementation of the most sophisticated and advanced acute care hospitals and associated services and to the attraction and retention of the highest caliber doctors and professional staffs, both of

which are necessary to attract patients from across the Commonwealth and out-of-state to such acute care hospitals;

(c) Due to the number, diversity, and nature of acute care hospitals and associated health care services in counties containing a city of the first class as defined by Section 156 of the Constitution of Kentucky, competition will best accomplish the General Assembly's objectives identified in this section in the acute care hospital marketplace, particularly as they relate to the development and expansion of the most sophisticated and advanced acute care hospitals and associated services and the attraction and retention of the highest caliber physicians and professional staffs to serve patients from all regions of the Commonwealth and out-of-state;

(d) The number, diversity, and nature of acute care hospitals and associated services, and the competition thereby engendered the acute care hospital marketplace in counties containing a city of the first class as defined by Section 156 of the Constitution of Kentucky, bear a natural, real, and substantial relationship to the populations of those counties and the urban characteristics of those counties;

(e) The nature and quality of the competition in the acute care hospital marketplace in counties of the Commonwealth not containing a city of the first class as defined by Section 156 of the Constitution of Kentucky is not such as would accomplish the General Assembly's objectives identified in this section; and

(f) In order to permit the General Assembly's objectives identified in this section to be accomplished in a timely and orderly fashion, KRS 216B.061 has been amended to provide that in any county containing a city of the first class as defined by Section 156 of the Constitution of Kentucky the activities identified in KRS 216B.061(1) may not be done prior to September 15, 1991, without first obtaining a certificate of need except that:

1. The construction of an acute care hospital may be commenced on or after January 1, 1991, so long as it does not offer services prior to September 15, 1991;

2. A capital expenditure in connection with an acute care hospital and exceeding the minimum may be obligated on or after January 1, 1991, so long as the health care facility or service for which the capital expenditure is obligated is not placed into service or offered prior to September 15, 1991; and

3. Major medical equipment may be acquired for or by an acute care hospital on or after January 1, 1991, so long as it is not placed into service prior to September 15, 1991.

These exceptions will permit new acute care hospitals and associated services in counties containing a city of the first class as defined by Section 156 of the Constitution of Kentucky to be placed into service or offered as soon as practical after September 15, 1991, but at the same time will give the affected acute care hospital marketplaces the opportunity they require to adjust to deregulation.

Section 2. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located. ***Notwithstanding the foregoing, no health facility or service which is exempt from the provisions of this chapter shall be an affected person and no health facility exempt from the provisions of this chapter shall have standing to appeal, or intervene in or participate in any action taken under this chapter.***

(3) "Applicant" means any person, health facility, or health service requesting a certificate of need or license.

(4) "Cabinet" means the Cabinet for Human Resources [~~which functions as the state health planning and development agency~~].

(5) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance ***or is not for investment purposes only***; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(6) "Capital expenditure minimum" means ***one million five hundred thousand dollars ($1,500,000)*** [~~six hundred thousand dollars ($600,000) for the twelve (12) month period~~] beginning July 15, ***1990*** [~~1980~~], and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by ***the*** [~~such~~] facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(7) "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, to substantially change the bed capacity or to substantially change a health service as covered by this chapter.

(8) "Commission" means the Commission for Health Economics Control in Kentucky.

(9) "Committee" means the Kentucky Health Care Cost Containment Advisory Committee.

(10) [~~"Federal Act" means the National Health Planning Resources Development Act of 1974, P.L. 93-641, and subsequent amendments.~~

~~(11)~~] "Formal review process" means the ninety (90) day certificate of need review conducted by the commission.

(11)[~~(12)~~] "Health facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, ***physical rehabilitation hospitals, chemical dependency facilities,*** tuberculosis hospitals, skilled nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance services, non-emergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and free standing hemodialysis units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

(12)[~~(13)~~] "Health maintenance organization" means a public or private organization, organized under KRS 304.38-010 to ***304.38-220 or two or more such organizations which have common ownership or are each controlled by the same person*** [~~304.38-200, which:~~

~~(a) Is a qualified health maintenance organization under the federal act; or~~

~~(b) 1. Provides or otherwise makes available to enrolled participants health services, including at least the following basic health services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage;~~

~~2. Is compensated (except for co-payments) for the provision of the basic health services listed in subparagraph 1. of this paragraph to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and~~

~~3. Provides physicians' services primarily;~~

~~a. Directly through physicians who are either employes or partners of such organization; or~~

~~b. Through arrangements with individual physicians or one (1) or more groups of physicians (organized on a group practice or individual practice basis).~~

~~(14) "Health service area" means a particular geographical area designated by the Governor as a health service planning area~~].

(13)[~~(15)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

[~~(16) "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the Governor.~~]

(14)[~~(17)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum except that ***the*** [~~such~~] term does not include medical equipment acquired by or on behalf of a medical laboratory. For purposes of this paragraph, "medical equipment expenditure minimum" means ***one million five hundred thousand dollars ($1,500,000)*** [~~four hundred thousand dollars ($400,000) for the twelve (12) month period~~] beginning July 15, ***1990*** [~~1982~~] and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

(15)[~~(18)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(16) "Non-clinically related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to the following:

1. Parking facilities;

2. Telecommunications or telephone systems;

3. Management information systems;

4. Ventilation systems;

5. Heating or air conditioning, or both;

6. Energy conservation; or

7. Administrative offices.

[~~(19) "Operating cost expenditure minimum" means two hundred fifty thousand dollars ($250,000) for the twelve (12) month period beginning July 15, 1982, and as adjusted annually thereafter.~~]

(17)[~~(20)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(18)[~~(21)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state or political subdivision or instrumentality [~~(~~]including a municipal corporation[~~)~~] of a state.

(19)[~~(22)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of [~~a local health planning agency,~~] the cabinet or the commission;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for [~~a local health planning agency,~~] the cabinet or the commission regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for [~~a local health planning agency,~~] the cabinet or the commission;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the commission or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the commission.

(20)[~~(23)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

(21)[~~(24)~~] "State health plan" means the document ***prepared triennially, updated annually and*** duly adopted by the State Health Planning Council and approved by the Governor.

(22)[~~(25)~~] "State Health Planning Council" means the ***Council for Health Services established under KRS 194.090*** [~~statewide health coordinating council or a state health planning agency established and designated by the Governor~~].

(23)[~~(26)~~] "Substantial change in a health service" means*:*

(a) The addition of a [~~clinically related service not previously provided in the health facility which entails an annual operating cost which exceeds the operating cost expenditure minimum, or The addition of a~~] health service for which there ***are review criteria and standards in*** [~~is a component of~~] the state health plan*;*[~~, or~~]

(b) The addition of a health service subject to licensure under this chapter*;*[~~,~~] or

(c) The reduction or termination of a health service which had previously been provided in the health facility.

(24)[~~(27)~~] "Substantial change in bed capacity" means the addition, reduction, relocation or redistribution of beds by licensure classification within a health facility.

(25) "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation.

(26)[~~(28)~~] "To acquire" means to obtain from another by purchase, ***transfer,*** lease or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition ***shall be*** [~~is~~] deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, ***transferred,*** leased or acquired by comparable arrangement by one person from another person.

(27)[~~(29)~~] To "batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities or equipment affecting the same health service area.

(28)[~~(30)~~] "To establish" means to construct, develop, or initiate a health facility.

(29)[~~(31)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in ***the*** [~~such~~] contract have been met. An option to purchase or lease which is not binding, shall not be considered an enforceable contract.

(30)[~~(32)~~] "To offer" means, when used in connection with health services, to hold a health facility or health maintenance organization out as capable of providing, or as having the means of providing, specified health services.

Section 3. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes*;*[~~,~~] state veterans' nursing homes***; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there***

are no review criteria in the state health plan; non-clinically related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital; or non-conforming ambulance services as defined by administrative regulation. ***These listed facilities or services shall be subject to licensure, when applicable.***

(2) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply, after September 15, 1991, to licensed acute care hospitals, as defined by administrative regulation, in counties containing a city of the first class as defined by Section 156 of the Constitution of Kentucky, except as these provisions relate to long term care beds and psychiatric beds.

(3)[~~(2)~~] Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists and other practitioners of the healing arts***; except*** [~~, provided that~~] no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, ***if the*** [~~provided that such~~] facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination;

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time[~~; and~~

~~(g) Personal care homes, as defined in KRS 216.750(2), located in any county containing over seven hundred fifty (750) square miles. If the local public health officer makes the determination that any personal care home with under sixteen (16) beds, in such county, maintains adequate safety and health standards the Cabinet for Human Resources shall issue a license to operate the personal care home~~].

Section 4. KRS 216B.040 is amended to read as follows:

(1) The commission shall have four (4) separate and distinct functions:

(a) To approve or deny certificates of need in accordance with the provisions of this chapter, except as to those applications which have been granted nonsubstantive review status by the chairman;

(b) To issue and to revoke certificates of need;

(c) To provide a due process hearing and issue a final determination on all actions by the cabinet to deny, revoke, modify or suspend licenses of health facilities and health services issued by the cabinet; and

(d) To enforce, through legal actions on its own motion, the provisions of this chapter and its orders and decisions issued pursuant to its functions.

(2) The commission shall:

(a) Issue administrative regulations through the secretary:

1. To establish the certificate of need review procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles.

2. To establish criteria for issuance and denial of certificates of need which shall be limited to the following considerations:

a. Consistency with plans. The proposal ***may*** [~~should~~] be consistent with the state health plan. [~~Consideration should be given to other applicable appropriately adopted plans developed by local health planning agencies.~~

~~In case of inconsistency between the state health plan and other plans considered, the state health plan shall prevail.~~] The fact that the state health plan does not address the specific type of proposal being reviewed ***shall*** [~~does~~] not constitute grounds for disapproval of the proposal;

b. Need and accessibility. The proposal ***shall*** [~~should~~] meet an identified need in a defined geographic area and be accessible to all residents of the area;

c. Interrelationships and linkages. The proposal ***shall*** [~~should~~] serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, accompanied by assurance of effort to achieve comprehensive care, proper utilization of services and efficient functioning of the health care system;

d. Costs, economic feasibility, and resources availability. The proposal, when measured against the cost of alternatives for meeting needs, ***shall be*** [~~is~~] judged to be an effective and economical use of resources, not only [~~in terms~~] of capital investment, but also [~~in terms of~~] ongoing requirements for health manpower and operational financing;

e. Quality of services. The applicant ***shall*** [~~should~~] be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services; and

f. Special needs and circumstances of health maintenance organizations. In the case of a health maintenance organization or an ambulatory care facility or health facility controlled directly or indirectly by a health maintenance organization, the proposal should be consistent with the special needs and circumstances of health maintenance organizations.

[~~3. To define a substantial change in a project which will require a subsequent review of an approved certificate of need and to establish a procedure for conducting such subsequent review.~~]

(b) Conduct public hearings, as requested, in respect to certificate of need applications, revocations of certificates of need, and denials, suspensions, modifications, or revocations of licenses.

(3) The commission ***may*** [~~shall have the authority to~~]:

(a) Issue [~~such~~] other administrative regulations through the secretary [~~as are~~] necessary for the proper administration of its functions;

(b) Administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the commission, and ***the*** [~~such~~] process shall extend to all parts of the Commonwealth. Service of process in all proceedings brought before or initiated by the commission may be made by certified mail, or in the same manner as other process in civil cases, as the commission directs;

(c) Establish by administrative regulation reasonable application fees for certificates of need;

(d) Appoint technical advisory committees as are deemed necessary to administer its functions under the provisions of this chapter; and

(e) Establish a mechanism for issuing advisory opinions to prospective applicants for certificates of need regarding the requirements of a certificate of need.

Section 5. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) Establish by administrative regulation under KRS Chapter 13A reasonable application fees for licenses and issue other administrative regulations necessary for the proper administration of the licensure function;

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter; and

(c) Establish licensure standards and procedures to ensure safe, adequate and efficient health facilities and health services. These regulations, under KRS Chapter 13A, shall include but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel and minimum standards for maintaining patient records;

2. Licensure application and renewal procedures; and

3. Classification of health facilities and health services according to type, size, range of services and level of care.

(2) The cabinet ***may*** [~~shall have authority to:~~

~~(a) Approve or deny certificates of need, when nonsubstantive review status has been granted, after considering the criteria as established by the commission and staff recommendations and, when applicable, recommendations of the local health planning agency.~~

~~(b)~~] authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated by the commission and the cabinet.

Section 6. KRS 216B.061 is amended to read as follows:

(1) Unless otherwise provided in this chapter, no person shall do any of the following without first obtaining a certificate of need:

(a) Establish a [~~new~~] health facility;

(b) Obligate a capital expenditure which exceeds the capital expenditure minimum;

(c) Make a substantial change in the bed capacity of a health facility;

(d) Make a substantial change in a health service;

(e) ***Make a substantial change in a project for which project a certificate of need was required at the commencement of the project;***

(f) Acquire major medical equipment;

(g)[~~(f)~~] Alter a geographical area ***or alter a specific location*** which has been designated on a certificate of need or license;

(h)[~~(g)~~] Transfer an approved certificate of need for the establishment of a new health facility or the replacement of ***a licensed*** [~~an existing~~] facility.

(2) No person shall separate portions of a single project into components in order to evade any expenditure minimum set forth in this chapter. For purposes of this chapter, the acquisition of one (1) or more items of functionally related diagnostic or therapeutic equipment shall be considered as one (1) project.

(3) No person shall have ex parte contact with any member of the commission regarding a certificate of need application from the commencement of the review cycle to the final decision. In the event an ex parte contact occurs, it shall be promptly made a part of the record.

(4) No person shall obligate a capital expenditure in excess of the amount authorized by an existing certificate of need unless he has received an administrative escalation from the commission as prescribed by regulation.

(5) No person shall proceed to obligate a capital expenditure under an approved certificate of need if there has been a substantial change in the project.

(6) A certificate of need ***shall be*** [~~is~~] issued for a specific location and, when applicable, for a designated geographical area.

(7) (a) Except as provided in KRS 216B.061(7)(b), (c), or (d), the provisions of KRS 216B.061(1) shall not apply to any person doing any of the activities identified in KRS 216B.061(1)(a), (b), (c), (d), (e), (f), (g), or (h) where those activities are done in,for, with respect to, related to, or in connection with, an existing or proposed acute care hospital, as defined by administrative regulation, located or to be located in a county containing a city of the first class as defined in Section 156 of the Constitution of Kentucky. However, the definition of acute care hospital shall not include licensed inpatient psychiatric or rehabilitation facilities licensed under KRS Chapter 216B.

(b) The construction of an acute care hospital shall not be commenced prior to January 1, 1991, in any county containing a city of the first class as defined by Section 156 of the Constitution of Kentucky unless a certificate of need has been obtained and if no certificate of need has been obtained, such a hospital shall not provide the services identified in KRS 216B.015(11) prior to September 15, 1991.

(c) 1. Prior to January 1, 1991, no person shall obligate a capital expenditure minimum which exceeds the capital expenditure minimum, for, with respect to, related to, or in connection with, an existing or proposed acute care hospital located or to be located in a county containing a city of the first class as defined by Section 156 of the Constitution of Kentucky without first obtaining a certificate of need and if a certificate of need is not obtained, the health facility or service for which the capital expenditure is obligated may not be placed into service or offered prior to September 15, 1991.

2. Prior to January 1, 1991, no person shall acquire major medical equipment for an existing or proposed acute care hospital located or to be located in a county containing a city of the first class as defined by Section 156 of the Constitution of Kentucky without first obtaining a certificate of need and if no certificate

of need is obtained, the major medical equipment may not be placed into service prior to September 15, 1991.

(d) Prior to September 15, 1991, no person shall do any of the activities identified in KRS 216B.061(1)(c), (d), (e), (g), or (h) in any county containing a city of the first class as defined in Section 156 of the Constitution of Kentucky without first obtaining a certificate of need.

Section 7. KRS 216B.065 is amended to read as follows:

(1) Before any person enters into a contractual agreement to acquire ***a licensed*** [~~an existing~~] health facility [~~which arrangements will require the obligation of a capital expenditure which exceeds the capital expenditure minimum, or to acquire major medical equipment~~], ***the*** [~~such~~] person shall notify the commission of the person's intent to acquire ***the*** [~~such a~~] facility or major medical equipment and of the services to be offered in the facility and its bed capacity or the use of such medical equipment. The notice shall be in writing and shall be filed at least thirty (30) days prior to entry into a contract to acquire the health facility [~~or major medical equipment~~] with respect to which the notice is given.

(2) A certificate of need shall be required for the acquisition of a health facility [~~or major medical equipment,~~] only if:

(a) The notice required in this section is not filed ***and the arrangement will require the obligation of a capital expenditure which exceeds the capital expenditure minimum***; or

(b) The commission finds within thirty (30) days after the date it received [~~such~~] notice that the health services or bed capacity of the health facility will be substantially changed in being acquired[~~, or in the case of major medical equipment, the equipment will be used to provide services for inpatients of a health care facility~~].

(3) Donations, ***transfers,*** and leases of major medical equipment and health facilities shall be considered acquisitions of equipment and facilities, and an acquisition of medical equipment or a facility for less than fair market value shall be considered an acquisition if the fair market value exceeds the expenditure minimum.

(4) Before any health facility reduces or terminates a health service or reduces its bed capacity, the facility shall notify the commission of its intent. The notice shall be in writing and shall be filed at least thirty (30) days prior to the reduction or termination. A certificate of need shall be required for the reduction or termination only if the notice required in this section is not filed.

Section 8. KRS 216B.085 is amended to read as follows:

(1) Any time no later than ***fifteen (15)*** [~~thirty (30)~~] days after the date the review commences, any affected person may request a public hearing. Hearings shall be before a quorum of the commission, or, at the request of the chairman, before a member of the commission designated by the chairman to serve as hearing officer [~~and shall be in addition to any hearing which may have been conducted before a local health planning agency~~]. The hearing officer shall be authorized to administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in ***the*** [~~such~~] proceedings.

(2) ***If*** [~~In the event~~] a hearing is requested, the chairman shall set a date, time and place for a public hearing. Reasonable notice of the hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the commission.

(3) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the hearing and may conduct reasonable cross examination under oath of persons who make factual allegations relevant to such matters. A full and complete record shall be maintained of the hearing[~~, and all testimony shall be reported but need not be transcribed unless the commission's decision is appealed pursuant to this chapter~~].

(4) Any decision of the commission to issue or deny a certificate of need shall be based solely on the record established with regard to the matter. All decisions granting, denying or modifying a certificate of need shall be made by the commission in writing and shall be recorded in the minutes of the commission. The commission shall notify the parties to the proceedings of the decision and the decision shall be final for purposes of judicial appeal unless a request for reconsideration is filed. An approved certificate of need shall be issued forty (40) days after notice of the commission's decision unless a request for reconsideration is filed or a judicial appeal is taken ***and issuance is enjoined by the court***.

Section 9. KRS 216B.086 is amended to read as follows:

(1) The commission may revoke a certificate of need***, or portion thereof,*** for failure of the holder of the certificate to implement the project in accordance with timetables ***and standards*** for implementation

established by administrative regulation of the commission. The commission shall give notice to the holder of the certificate of its initial decision to revoke the certificate of need ***or portion thereof.*** The commission's initial decision to revoke a certificate of need ***or portion thereof*** shall become final after thirty (30) days unless a hearing is requested. The chairman shall give notice to the holder of the certificate of a decision which has become final under the provisions of this subsection.

(2) The holder of the certificate of need to be revoked may request in writing a public hearing in respect to an initial decision by the commission to revoke a certificate of need within thirty (30) days of the date of notice of ***the*** [~~such~~] initial decision. Failure to request a hearing shall constitute a waiver of any right to reconsideration or judicial appeal of a final commission decision to revoke a certificate of need.

(3) The hearing shall be before the commission, or at the request of the chairman, before a member of the commission designated by the chairman to be the hearing officer. The hearing shall be no later than thirty (30) days after the request for the hearing is filed.

(4) In the event a hearing is requested, the chairman shall set a date, time and place for a public hearing. Reasonable notice of ***the*** [~~such~~] hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the commission.

(5) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the revocation of the certificate of need, and may conduct reasonable cross-examination under oath of persons who testify. A full and complete record shall be maintained of the hearing, and all testimony shall be ***recorded*** [~~reported~~] but [~~need~~] not be transcribed unless the commission's final decision is appealed pursuant to this chapter.

(6) After the issuance of an initial decision to revoke a certificate of need and before a final decision is made, no person shall have ex parte contacts with members of the commission regarding the revocation. In the event an ex parte contact occurs, it shall be promptly made a part of the record.

(7) If a hearing is requested after notice of the commission's initial decision to revoke a certificate of need, the commission shall make a final decision at its next regularly scheduled meeting after the hearing. Any final decision revoking a certificate of need shall be made by the commission in writing and shall be recorded in the minutes of the commission. The commission shall notify the parties to the proceedings of the final decision.

(8) Any final decision of the commission to revoke a certificate of need shall be based solely on the record established with regard to the revocation.

(9) Except as provided in subsection (1) of this section, reconsideration pursuant to KRS 216B.090 or judicial appeal pursuant to KRS 216B.115 is available with regard to a final decision of the commission to revoke a certificate of need.

Section 10. KRS 216B.090 is amended to read as follows:

(1) Any party to the proceedings may, for good cause shown, request in writing a hearing for purposes of reconsideration of a decision of the commission pertaining to a certificate of need or the revocation of a certificate of need under such procedures as are promulgated by administrative regulation. The request shall be filed within fifteen (15) days of the notice of the decision [~~and the commission shall consider the request at its next regularly scheduled meeting~~]. For purposes of this section there shall be deemed to be "good cause shown" if the request for a public hearing:

(a) Presents significant, relevant information not previously available for consideration by the commission; [~~or~~]

(b) Demonstrates that there have been significant changes in the factors or circumstances relied upon by the commission in reaching its decision; [~~or~~]

(c) Demonstrates that the commission has materially failed to follow its adopted procedures in reaching its decision***; or***

(d) States that a public hearing pursuant to KRS 216B.085 was not conducted prior to a decision to deny a certificate of need.

(2) If a public hearing is granted, it shall be held within thirty (30) days after the decision to grant the request for reconsideration. The hearing shall be conducted in accordance with the provisions of this chapter. The commission shall make its decision on reconsideration [~~at its next regularly scheduled meeting after the public hearing,~~] and shall give notice thereof. The decision of the commission shall be final for purposes of judicial appeal. An approved certificate of need shall be issued forty (40) days after notice of the commission's decision unless a judicial appeal is taken ***and issuance is enjoined by the court.***

Section 11. KRS 216B.095 is amended to read as follows:

(1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review as provided below. The chairman shall grant or deny nonsubstantive review status within ***ten (10)*** [~~fifteen (15)~~] days of the date the application is deemed completed and shall give notice to all affected persons of the decision to conduct a nonsubstantive review. Any affected person other than the applicant may request a hearing by filing a request with the commission within ***ten (10)*** [~~fifteen (15)~~] days of the notice to conduct a nonsubstantive review. As applicable, hearings shall be conducted as provided in KRS 216B.085. Based solely upon the record established with regard to the matter, the ***commission*** [~~cabinet~~] shall approve or deny a certificate of need on all projects assigned nonsubstantive review status within ***thirty-five (35)*** [~~forty-five (45)~~] days of the determination of nonsubstantive review status. If the application is denied nonsubstantive review status, it ***shall*** [~~will~~] automatically be placed in the formal review process.

(2) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next cycle of the formal review process. Nothing in this subsection shall require an applicant to pursue a formal review before obtaining judicial review pursuant to KRS 216B.115.

(3) The chairman shall grant nonsubstantive review status to an application for a certificate of need which is required:

(a) ***To change the location of a proposed health facility;***

(b) To replace or relocate a licensed health facility provided there is no substantial change in health services or substantial change in bed capacity; [~~In emergency circumstances which, if not promptly acted upon, would pose a threat to the health and safety of the patients. Emergency circumstances shall include acts of God, fire, vandalism, structural or mechanical failure and other similar situations. Any applicant acting under this subsection may proceed to relieve circumstances threatening the health and safety of the patients, provided the cabinet is consulted prior to such action and the application is submitted within thirty (30) days of the occurrence of the emergency; or~~

~~(b) To eliminate or prevent imminent safety hazards as defined by federal, state, or local fire, building, or life safety codes or regulations; or~~

~~(c) To comply with licensure standards; or~~

~~(d) To comply with accreditation standards compliance with which is required to receive reimbursements under title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under title XIX of such Act; or~~]

(c) [~~(e)~~] To replace or repair worn equipment provided such worn equipment shall have been used by the applicant in a health facility for five (5) years or more; [~~or~~]

(d) For cost escalations;

(e) For change of ownership when applicable;

(f) To establish an industrial ambulance service; or

(g) In other circumstances the commission by regulation may prescribe.

[~~(f) To make repairs, alterations or improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in health services, or the addition of equipment. In no event shall Repairs, alterations or improvements be construed to mean the replacement or the relocation of a health facility; or~~

~~(g) In such other circumstances as the commission may by regulation prescribe.~~]

(4) Notwithstanding any other provision to the contrary in this chapter, the ***commission*** [~~cabinet~~] shall approve a certificate of need for a project required for the purposes set out in (a) through ***(g)*** [~~(d)~~] of subsection (3) hereof unless it finds the facility or service with respect to which ***the*** [~~such~~] capital expenditure is proposed to be made is not in fact so required; or to the extent the facility or services contemplated by the proposed capital expenditure is addressed in the state health plan, the ***commission*** [~~cabinet~~] finds that ***the*** [~~such~~] capital expenditure is not consistent with the state health plan.

(5) The decision of the ***commission*** [~~cabinet~~] approving or denying a certificate of need pursuant to this section shall be final for purposes of judicial appeal unless the applicant requests the application be placed in the formal review process. An approved certificate shall be issued ***thirty (30)*** [~~forty (40)~~] days after notice of the ***commission's*** [~~cabinet's~~] decision, unless a judicial appeal is taken ***and issuance is enjoined by the court.***

Section 12. KRS 216B.115 is amended to read as follows:

(1) An appeal to the Franklin Circuit Court may be taken from any final decision of the commission or cabinet with respect to a certificate of need application, a certificate of need, or a license, by any party to the proceedings.

(2) An appeal may be taken by filing a petition for review in the Franklin Circuit Court within thirty (30) days after notice of the final decision[~~.~~] ***unless*** a request for reconsideration ***has been filed, in which case the petition shall be filed within fifteen (15) days*** [~~filed pursuant to KRS 216B.090 shall toll the time for filing a judicial appeal until notice~~] of the commission's decision not to reconsider or notice of its decision on reconsideration [~~is given~~]. The petition shall state completely the grounds upon which the review is sought and shall assign all errors relied upon. The petitioner shall serve a copy of the petition to each person who was a party to the proceedings. Summons shall be issued upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. The commission or cabinet shall, upon being served with the summons and within thirty (30) days thereafter, file a copy of the record, duly certified by the cabinet or the chairman of the commission, the cost of the record to be taxed as costs upon appeal. In lieu of filing of ***the*** [~~such~~] record, an abstract thereof may be filed if all parties to the appeal agree.

Section 13. KRS 216B.120 is amended to read as follows:

(1) Each party to the proceedings may participate as a party in the proceedings in the circuit court on an appeal.

(2) In case of an appeal, no new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the decision or order; the court shall hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determining whether the commission or cabinet acted within its jurisdiction, whether the decision or order was procured by fraud, and whether the findings of fact in issue are supported by substantial evidence and are not clearly erroneous based upon a review of the record as a whole.

(3) The court shall enter judgment affirming, modifying, reversing or setting aside the decision or, in its discretion, remanding the case to the commission or cabinet for proceedings in conformity with the directions of the court. ***If the court affirms the issuance of the certificate of need, the holder of the certificate shall be entitled to recover its costs of defense of the appeal, including its attorney's fees.***

(4) Any party to the judicial appeal may appeal from the Circuit Court to the Court of Appeals in accordance with the Kentucky Rules of Civil Procedure.

Section 14. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary of the Cabinet for Human Resources shall allocate available funds to the mental health-mental retardation boards or nonprofit organizations for disbursement during the fiscal year in accordance with [~~such~~] approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the operations, budgets and expenditures of the various programs; and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. He may withdraw funds from any program, or component part thereof, which is not being operated and administered in accordance with its approved plan and budget, and the policies and regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480.

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and regulations of the cabinet, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonprofit organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including but not limited to their financial record keeping, their personnel management operations and their financial and program reporting; and

(b) Make [~~whatever~~] personnel changes [~~are~~] deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the cabinet.

(4) Any community mental health-mental retardation board to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the cabinet for human resources thirty (30) days prior to ***the*** [~~such~~] anticipated action by the secretary. ***The*** [~~Such~~] notification shall be by means of a letter from the secretary to the chairman of the mental health-mental retardation board in question and shall state the reasons for such anticipated action. Following ***the*** [~~such~~] notification the mental health-mental retardation board may:

(a) Comply with the secretary's action without contesting it; or

(b) Apply for a public hearing before ***a hearing officer appointed by the secretary*** [~~the Statewide Health Coordinating Council (SHCC) created pursuant to P.L. 93-641~~] to show cause why ***the*** [~~such~~] action should not stand. ***The*** [~~Such~~] application shall be made within seven (7) days of the receipt of ***the*** [~~such~~] letter from the secretary. The public hearing shall be held [~~before a hearing officer designated by the SHCC~~] within ten (10) days of the application by the mental health-mental retardation board for such hearing. The hearing officer shall ***submit*** [~~prepare~~] a written finding of facts, conclusions of law and recommendation to the ***secretary*** [~~SHCC~~] within ten (10) days after the date of the hearing. [~~This finding of facts, conclusions of law and recommendation shall be filed with~~] The secretary [~~who~~] shall ***consider*** [~~call a special meeting of the SHCC for the purpose of considering~~] the hearing officer's findings and recommendation and ***make*** [~~making~~] a ruling thereon.

Section 15. KRS 214.450 is amended to read as follows:

As used in this Act unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood or blood products to any health care facility, health service, or health care provider.

(3) "Communicable disease" means only a communicable disease which may be transmitted by blood and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(4) "Health facility" means any health facility set forth under KRS 216B.015(11) which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015***(13)***[~~(14)~~] and which provides for the transfusion of blood into a living human body.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood.

Section 16. KRS 194.090 is amended to read as follows:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the cabinet shall have the following structure:

(1) There is hereby created, within the cabinet, a Citizens' Commission for Human Resources.

(a) The [~~citizens'~~] commission [~~for human resources~~] shall advise the Governor, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the health, welfare, manpower, and other human service needs of the citizens of the Commonwealth of Kentucky and the health, welfare, manpower, and other human service programs developed and operated by the Commonwealth of Kentucky to address those needs. The [~~citizens'~~] commission [~~for human resources~~] shall also advise the secretary for human resources on the identification of service needs, the formulation of policy, the development of program alternatives, the evaluation of program proposals, the determination of program priorities, the allocation of resources, proposed state and federal legislation, and proposed state and federal administrative regulations.

(b) The [~~citizens'~~] commission [~~for human resources~~] shall be composed of no more than fifteen (15) members appointed by the Governor. The members of the [~~citizens'~~] commission [~~for human resources~~] shall be chosen to broadly represent public interest groups concerned with the human service programs operated by the Cabinet for Human Resources, professionals involved in the delivery of human services, minority groups, recipients of human services provided by the state, and the general public. The Governor shall appoint the chairman of the [~~citizens'~~] commission [~~for human resources~~] upon the recommendation of the secretary for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the [~~citizens'~~] commission [~~for human resources~~]. The [~~citizens'~~] commission [~~for human resources~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the [~~citizens'~~] commission [~~for human resources~~] or the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(2) There is hereby created within the Cabinet for Human Resources a Council for Health Services.

(a) The council [~~for health services~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for health services, and other officials of the Commonwealth on policy matters concerning the delivery of health services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council [~~for health services~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide health services ***and to advise the cabinet on the development and content of the state health plan.***

(b) The council [~~for health services~~] shall be composed of no more than nineteen (19) citizen members appointed by the Governor. ***Ten (10)*** members of the council [~~for health services~~] shall be chosen to broadly represent public interest groups concerned with health services, [~~professionals involved in the delivery of health services,~~] recipients of health services provided by the state, minority groups, and the general public. ***Nine (9) members of the council shall represent providers of health care and not less than one-half (1/2) of the providers shall be direct providers of health care. At least one (1) of the direct providers of health care shall be a person engaged in the administration of a hospital and one (1) shall be a physician in active practice. Nominations for health care provider members of the council shall be solicited from recognized health care provider organizations. Membership of the council shall be geographically distributed in order that each area development district is represented. Members shall serve for terms of three (3) years. If a vacancy occurs, the person appointed as a replacement shall serve only for the remainder of the vacated term. Members shall serve until the time their successors have been appointed. No member shall serve for more than two (2) consecutive terms. The chairman of the council shall be elected by a vote of the council.*** [~~The Governor shall appoint the chairman of the council for health services who by virtue of his appointment shall also serve as one (1) of the voting members of the citizens' commission for human resources.~~] The secretary for human resources and the commissioner for health services shall be nonvoting ex officio members of the council [~~for health services~~], and the commissioner for health services shall be staff director for, and secretary to the council [~~for health services~~]. The council [~~for health services~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for health services. A majority of the appointed members shall constitute a quorum.

(3) There is hereby created within the Cabinet for Human Resources a Council for Social Insurance.

(a) The council [~~for social insurance~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for social insurance, and other officials of the Commonwealth on policy matters concerning the delivery of social alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council [~~for social insurance~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide income maintenance and supplementation services.

(b) The council [~~for social insurance~~] shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the council [~~for social insurance~~] shall be chosen to broadly represent public interest groups concerned with social insurance programs operated by the Commonwealth, minority groups, the poor, recipients of social insurance services provided by the state and the general public. The Governor shall appoint the chairman of the council [~~for social insurance~~], who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources and the commissioner for social insurance shall be nonvoting ex officio members of the council [~~for social insurance~~], and the commissioner for social insurance shall be staff director for and secretary to the council [~~for social insurance~~]. The council [~~for social insurance~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social insurance. A majority of the appointed members shall constitute a quorum.

(4) There is hereby created within the Cabinet for Human Resources a Council for Social Services.

(a) The council [~~for social services~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for social services, and other officials of the Commonwealth on policy matters concerning the delivery of social services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council [~~for social services~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide social services.

(b) The council [~~for social services~~] shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the council [~~for social services~~] shall be chosen to broadly represent public interest groups concerned with social services, professionals involved in the delivery of social services, minority groups, the disadvantaged, recipients of social services provided by the state, and the general public. The Governor shall appoint the chairman of the council [~~for social services~~], who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources and the commissioner for social services shall be nonvoting ex officio members of the council [~~for social services~~], and the commissioner for social services shall be staff director for, and secretary to, the council [~~for social services~~]. The council [~~for social services~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social services. A majority of the appointed members shall constitute a quorum.

(5) There is hereby created within the Cabinet for Human Resources a State Job Training Coordinating Council which for administrative and support purposes shall be attached to the Department for Employment Services.

(a) The council shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, the commissioner for employment services, and other officials of the Commonwealth on policy matters concerning the delivery of manpower services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide manpower services.

(b) The council shall review the operation of programs conducted in each service delivery area and the availability, responsiveness, and adequacy of state services, and shall prepare reports and make recommendations to the Governor to improve these programs. The council shall furthermore do all necessary to comply with Public Law No. 97-300, the Job Training Partnership Act of 1982, and it shall execute [~~such~~] other manpower and training responsibilities not enumerated in Public Law No. 97-300 [~~as~~] determined by the Governor, the secretary for human resources or the commissioner of the Department for Employment Services.

(c) The council shall consist of at least twenty-five (25) members who shall be appointed by the Governor and who shall serve for a term of four (4) years or until such time as a successor is appointed and qualified except that upon initial appointment eight (8) of the members shall serve for a term of one (1) year, eight (8) of the members shall serve for a term of two (2) years, and nine (9) of the members shall serve for a term of three (3) years. ***If*** [~~In the event of~~] a vacancy ***occurs*** the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employe of state government. The commissioner of the Department for Employment Services or his designee shall serve as secretary of the council. The Department for Employment Services shall provide the council with professional, technical and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the commissioner of the Department for Employment Services and notice of [~~such~~] meetings shall be either in writing or by telephone. For the purpose of conducting business, one-half (1/2) of the membership, excluding any vacancies, shall constitute a quorum.

(6) There is hereby created within the Cabinet for Human Resources an Institute for Aging.

(a) The institute [~~for aging~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged. The institute [~~for aging~~] shall be primarily concerned with identifying special needs of the aged and advising the secretary for human resources on how the cabinet may integrate its various programs and services to yield the maximum possible benefit for the aged. The institute [~~for aging~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to the aged.

(b) The institute [~~for aging~~] shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the institute [~~for aging~~] shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chairman of the institute [~~for aging~~], who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the institute [~~for aging~~]. The institute [~~for aging~~] shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(7) There is hereby created within the Cabinet for Human Resources an Institute for Children.

(a) The institute [~~for children~~] shall advise the [~~citizens'~~] commission [~~for human resources~~], the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to children, adolescents, and the developmentally disabled. The institute [~~for children~~] shall be primarily concerned with identifying the special needs of these clientele groups and advising the secretary on how the Cabinet for Human Resources may integrate its various programs and services to yield the maximum possible benefit for children, adolescents, and the developmentally disabled. The institute [~~for children~~] shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to these clientele groups.

(b) The institute [~~for children~~] shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the institute [~~for children~~] shall be chosen to broadly represent public interest groups concerned with the needs of children, adolescents, and the developmentally disabled, professionals involved in the delivery of services to these clientele groups, minority groups, recipients of state-provided services to these clientele groups, and the general public. The Governor shall appoint a chairman of the institute [~~for children~~] who by virtue of his appointment shall also serve as one (1) of the voting members of the [~~citizens'~~] commission [~~for human resources~~]. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the institute [~~for children~~]. The institute [~~for children~~] shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

SECTION 17. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

There is hereby created a Task Force on Health Care Cost and Quality for the purpose of studying the implementation of Sections 1 through 12 of this Act. The task force members shall be appointed by the Governor on the effective date of this Act. The task force shall include a reasonable number of members and shall include but not be limited to chief executive officers of non-profit health insurance organizations and for-profit and not-for-profit health care institutions and prominent citizens with an interest in health care cost containment. The task force shall be co-chaired by the mayor of the largest city within and county judge/executive of any county containing more than 3,000 acute care hospital beds. The task force shall hold its first meeting no later than July 30, 1990 and shall meet at least bimonthly. The task force shall forward a report of its findings and recommendations to the Secretary of the Cabinet for Human Resources and to the Legislative Research Commission no later than December 31, 1991.

The Committee Amendment No. 1 to the House Committee Substitute to **SB 68** is as follows:

Amend printed copy of HCS to **SB 68** on page 26, line 25, delete the brackets and strike outs on "or major medical equipment"; and

On page 27, lines 2 and 3, delete the brackets and strike outs on "or majo medical equipment,".

The Committee Amendment No. 2 to the House Committee Substitute to **SB 68** is as follows:

Amend printed copy of HCS to **SB 68** on page 46, line 23, delete the word "***each***"; and on line 24, change the words "***district is***" to "***districts are***".

The Committee Amendment No. 3 to the House Committee Substitute to **SB 68** is as follows:

Amend printed copy of HCS to **SB 68** on page 15, line 23, by inserting the following after the word "***hospital***":

"***or the following health services provided on site in an existing health facility when the cost is less than one million dollars ($1,000,000): acute care, psychiatric care, all levels of neonatal care, intensive care/coronary care units, surgical services, transplant centers, magnetic resonance imaging, lithotripters, radiation therapy, cardiac catheterization, open heart surgery, new technological developments, emergency medical services, physical rehabilitation, and chemical dependency. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities and family care homes***"; and

And on page 16, line 8, by inserting the following:

"***(3) Nothing in this chapter shall be construed to exempt skilled nursing beds, nursing home beds, intermediate care beds or personal care beds from the provisions of this chapter that relate to the issuance of a certificate of need.***"

And on page 16, line 9, by changing "*(3)*" to "*(4)*".

The Committee Amendment No. 4 to the House Committee Substitute to SB 68 is as follows:

Amend printed copy of HCS to SB 68 on page 55, following line 16, insert the following:

SECTION 17. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Beginning no later than January 1, 1991, each licensed acute care hospital shall provide, without charge, current written information to each patient prior to admission or registration and, upon request, to the public regarding the hospital's usual and customary charges and quality indicators for those items designated by the Cabinet for Human Resources in administrative regulation. Hospitals shall supply information in a format prescribed by the Cabinet for Human Resources in administrative regulation.

(2) Within ninety (90) days of the effective date of this Act, the cabinet shall adopt regulations to prescribe:

(a) The frequently treated medical conditions, frequently used health services, and major procedures for which hospitals shall provide information, and;

(b) A format for publication of required information to achieve comparability of data among hospitals, and;

(c) Quality indicators such as rates of re-admission, patient morbidity and mortality, iatrogenic disease and nosocomial infection which shall be published and provided by hospitals.

Section 18. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility; or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employes which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employes which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any hospital which willfully violates Section 17 of this Act shall be fined one hundred dollars ($100) per violation for willfully failing to provide price and quality information to any patient and shall be fined ten thousand dollars ($10,000) per violation for willfully supplying false or misleading information to any patient or the public.

And on page 55, line 17, by changing "Section 17" to "Section 19".

The Committee Amendment No. 5 to the House Committee Substitute to SB 68 is as follows:

Amend printed copy of HCS to SB 68 on page 39, line 9, by adding the following: "***The decision of the circuit court shall be final and non-appealable.***"

And on page 39, lines 10 through 12, by bracketing and striking through the words in their entirety, and following "(4)" inserting in lieu thereof the following:

"In any case in which the granting of a license or certificate of need is appealed by a competing health care provider, the court shall require the appellant to post a bond, with good and sufficient surety, in such sum as the court deems proper, for the payment of the costs and damages as may be incurred or suffered by the certificate of need or license applicant as a result of the filing and pendency of the appeal. Failure to post the bond as required by the court shall result in the dismissal of the appeal. If the decision of the commission granting the certificate of need or license is sustained, the court shall order the appellant health care provider to pay the applicant its costs incurred and damages suffered as a result of the filing and pendency of the appeal, which shall not be limited to the amount of the bond. The court shall not withhold the finality of its decision on the merits of the appeal pending the determination as to such costs and damages. As used in this section, "competing health care provider" means any health facility or health maintenance organization which competes with the applicant for patients, customers, the services of health care personnel or policy holders.".

The Committee Amendment No. 6 to the House Committee Substitute to **SB 68** is as follows:

Amend printed copy of HCS to **SB 68** on page 22, line 2, after the word "chapter" by inserting the following: "***. A license, issued pursuant to a certificate of need to establish a service for which there is no licensure category, is the sole document which defines the services offered at the health care facility***".

Calendar

HB 198, **HB 453** and **SB 223** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 371 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 371** be passed.

On the roll call the vote was: Yeas 65, Nays 25. (See February 27, 1990 roll call on **HB 371** - Appendix.)

HB 371 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 371** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 391, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 391** be passed.

On the roll call the vote was: Yeas 80, Nays 12. (See February 27, 1990 roll call on **HB 391** - Appendix.)

HB 391 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 391**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 445 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 445** be passed.

On the roll call the vote was: Yeas 70, Nays 21. (See February 27, 1990 roll call on **HB 445** - Appendix.).

HB 445 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 445** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 145, with Senate Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 145** is as follows:

Amend printed copy of **HB 145** on page 10, line 22, after the comma "," by adding the following language: "***the Kentucky Society of Certified Public Accountants,***".

Representative Clarke moved that the House concur in Senate Committee Amendment No. 1 to **HB 145**. Agreed

The Senate Floor Amendment No. 2 to **HB 145** is as follows:

Amend printed copy of **HB 145** on page 17, line 21, after the word "***format.***" by adding the following new language: "***The Department of Local Government shall, upon receipt, file a copy of each completed uniform financial information report with the county clerk of the county in which the reporting unit of local government is located.***"

Representative Clarke moved that the House concur in Senate Floor Amendment No. 2 to **HB 145**. Agreed.

Representative Clarke moved that **HB 145**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 27, 1990 roll call on **HB 145** - Appendix.)

HB 145, as amended by the Senate, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 145**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 426, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Substitute to **HB 426**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 426**. Agreed.

Representative Ark moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 426**. Rejected.

Representative B. Smith moved that **HB 426**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 17. (See February 27, 1990 roll call on **HB 426** - Appendix.)

HB 426, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 426**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro Tempore Worthington assumed the Chair.

Orders of the Day (Continued)

SB 175, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **SB 175**. Agreed.

Representative Farrow moved that **SB 175**, as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 9. (See February 27, 1990 roll call on **SB 175** - Appendix.)

SB 175, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 175**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 353, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of Committee Substitute to **HB 353**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 353**. Agreed.

Representative Ford moved that **HB 353** be laid on the Clerk's Desk.

On the roll call the vote was yeas 20—Allen, Altman, Barrows, Bruce, Ford, J. Harper, K. Harper, Jensen, Keith, Layman, Lefevers, McBee, Mullinix, Napier, Noland, Siler, Strong, Todd, Walker, Zimmerman. Nays 71—Ackerson, Adkins, Ark, Arnold, Ballard, Bentley, Blevins, Bronger, Brown, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Freibert, Geveden, Gray, Gregory, Hancock, Hatcher, Heleringer, Hourigan, Jackson, A. Jones, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Nelson, Nett, Northup, O'Brien, Overstreet, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson; P. Richardson, Ridley, Riner, Scorsone, Sheehan, B. Smith, R. Smith, Stokes, Stumbo, Turner, Ward, White.

The motion that **HB 353** be laid on the Clerk's Desk was rejected.

Representative Mack moved that **HB 353**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 4. (See February 27, 1990 roll call on **HB 353** - Appendix.)

HB 353, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 353**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 62**, **HB 167**, **HB 172**, **HB 311**, **HB 372** and **HB 438** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:53 p.m.)

HB 62, **HB 167**, **HB 172**, **HB 311**, **HB 372** and **HB 438** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 413, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to **HB 413**. Agreed.

Representative P. Richardson moved that **HB 413**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 27, 1990 roll call on **HB 413** - Appendix.)

HB 413, as amended, was passed and the title agreed to.

Representative P. Richardson moved that the vote by which **HB 413**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 511, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Floor Amendment No. 3 to **HB 511**. Agreed.

Representative Heleringer moved that **HB 511**, as amended, be passed.

Representative Scorsone moved the adoption of Floor Amendment No. 2 to **HB 511**. Rejected.

On the roll call the vote was: Yeas 96, Nays 1. (See February 27, 1990 roll call on **HB 511** - Appendix.)

HB 511, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 511**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 747, by Representatives Bentley, Blevins, Adkins, White, Deskins, Little, Hatcher and Maggard: AN ACT relating to retirement.

HB 748, by Representative Worthington: AN ACT relating to environmental protection.

HB 749, by Representatives Kerr, K. Harper, Johnson, Donnermeyer, Walker, Callahan and Reinhardt: AN ACT relating to parenting and family life skills education.

HB 750, by Representative R. Smith: AN ACT relating to the economic development reporting.

HB 751, by Representative B. Richardson: AN ACT relating to Commercial Motor Vehicles and Driver's License.

HB 752, by Representative Hancock: AN ACT relating to benefits for state employees.

HB 753, by Representative Hancock: AN ACT relating to benefits for state employees.

HB 754, by Representative Clarke: AN ACT relating to tax penalties.

HB 755, by Representative Johnson: AN ACT relating to city housing authorities.

HB 756, by Representatives Blevins and Cline: AN ACT relating to juveniles, making an appropriation therefor and declaring an emergency.

HB 757, by Representative Mason: AN ACT relating to public health.

HB 758, by Representatives Brown, R. Smith, McElroy, Ridley, Geveden and Strong: AN ACT relating to environmental protection.

HB 759, by Representative Ridley: AN ACT relating to retirement.

HB 760, by Representatives Hourigan, Rapier, Crupper, Pritchett, Little, Ridley, Allen, Bruce, B. Richardson, Curd, Ballard, Moberly, Lewis and Mack: AN ACT making an appropriation to the Department of Education for school district transportation expenses.

HB 761, by Representative Richards: AN ACT relating to operator's licenses.

HB 762, by Representative Riner: AN ACT relating to employees.

HB 763, by Representative Riner: AN ACT relating to drug-free workplaces.

HB 764, by Representatives Priddy, Nett and Bronger: AN ACT relating to elections.

HB 765, by Representative Walker: AN ACT relating to prepaid health care plans.

HB 766, by Representative Riner: AN ACT relating to motor vehicle operator's licenses.

HB 767, by Representative Arnold: AN ACT relating to counties.

HB 768, by Representative Northup: AN ACT relating to fire protection in cities.

HB 769, by Representative Ward: AN ACT relating to traffic safety.

HB 770, by Representatives McElroy, B. Smith, Gedling, Turner, P. Clark, Morris, Crupper, Gray, Lyne, Northup, Richards, Altman, Bronger, Yates, L. Clark, Brown, A. Jones, Gregory, Curd, Castleman, Butler and Bruce: AN ACT relating to fuel-grade alcohol production and making an appropriation therefor.

HB 771, by Representative B. Smith: AN ACT relating to grain.

HB 772, by Representatives Blevins, Cline, Maggard, Moberly, Gray, Hourigan, Lewis, Pritchett, Farrow, B. Richardson, Yates, Arnold, Scorsone, Bronger, LeMaster, Burch, Donnermeyer, Layman and Ark: AN ACT relating to salaries of Circuit Court clerks and making an appropriation therefor.

HB 773, by Representatives Lear and Freibert: AN ACT relating to physical examinations of school employees and agents who may transport children.

HB 774, by Representative P. Clark: AN ACT relating to health insurance.

HB 775, by Representative Ridley: AN ACT relating to education.

HB 776, by Representative Blevins: AN ACT relating to urban-county government.

HB 777, by Representative P. Richardson: AN ACT relating to due process.

HCR 152, by Representative Worthington: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose for submission to the states an amendment to the U. S. Constitution, to require, with certain exceptions, that the federal budget be balanced, or in the alternative, to call a constitutional convention for the sole and exclusive purpose of proposing such an amendment.

HCR 153, by Representative R. Smith: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Agriculture and Natural Resources to study coordination efforts between government agencies responding to hazardous material spills and other emergencies and the recovery of extraordinary costs associated with such response.

HR 154, by Representatives Casebier and Lile: A RESOLUTION in honor of the Valley Women's Club.

HCR 155, by Representatives Rapier, Yates and Hourigan: A CONCURRENT RESOLUTION requesting the United States Army Corps of Engineers to take immediate steps to clean and dredge the Rolling Fork River in the areas of New Haven, Boston, and Lebanon Junction, Kentucky.

HCR 156, by Representatives Freibert and Lear: A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee of the Legislative Research Commission to study the state enterprise zone program during the 1990-91 interim.

HR 157, by Representative Richards: A RESOLUTION recognizing medical care for the uninsured.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **HB 536, HB 520, HB 442, HB 594, HB 679, HB 700, HB 713.**

Health and Welfare: **HB 670, HB 704.**

Elections and Constitutional Amendments: **SB 72.**

Report of Committees

The Committee on Natural Resources and Environmental Protection reported **HB 390** with Committee Amendment attached thereto, **HB 416, HB 497** with Committee Substitute attached thereto, and **HB 562** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 390, AN ACT relating to underground coal mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine in his district at least once every six (6) months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. ***These*** [~~Such~~] inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) ***A miner's representative designated by the workers at the mine shall accompany the inspector on each official inspection of the mine, and for the purpose of pay, time spent by the miner's representative shall be considered constructive work;***

(8) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal and clay including any overland coal belts; and

(9)[~~(8)~~] A mine inspector shall have the express authority to enter upon the premises of and inspect any coal or clay mine, including any overland coal belts, at any reasonable time.

The Committee Amendment No. 1 to **HB 390** is as follows:

Amend printed copy of **HB 390** on page 2, line 16, after the word "***by***" by inserting: "***and from among***"

HB 416, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.090 is amended to read as follows:

(1) The Governor shall appoint an adequate number of mine inspectors to insure at least ***four (4)*** [~~two (2)~~] inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the state and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of those underground coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. ***Monthly inspections for the presence of methane shall be conducted in all mines below the water table and in all other mines operating, in whole or in part, a long wall system of mining.*** One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of [~~inspectors of mine weights and~~] mine safety instructors. The term of office of each mine inspector, each electrical inspector[~~, each inspector of mine weights~~] and each mine safety instructor shall be during the period of capable, efficient service and good behavior.

(2) All mine inspectors, ***and*** electrical inspectors, mine safety instructors[~~, and inspectors of mine weights~~] shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least ten (10) years' experience in coal mines, at least two (2) of which ***shall*** [~~must~~] have been in mines in this state. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. Persons desiring to use their mining engineering or technology degree for practical experience credit shall file a certified transcript of their grades and proof of having received their degree prior to examination.

(3) No person shall be appointed to the office of mine inspector, electrical inspector, or mine safety instructor until he has passed a satisfactory examination before the board. The commissioner may recommend to the Governor applicants for mine inspector, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training and experience to be the most competent of the applicants.

(4) Mine inspectors, electrical inspectors, ***and*** mine safety instructors[~~, and inspectors of mine weights~~] shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for [~~such~~] expenses submitted by inspectors and safety instructors who shall verify upon oath that ***the*** [~~such~~] expenses were incurred in the discharge of their official duties.

(6) Each mine inspector, electrical inspector, ***and*** mine safety instructor[~~, and inspector of mine weights~~] shall take ***an*** oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each mine inspector, electrical inspector, ***and*** mine safety instructor[~~, and inspector of mine weights~~] shall give bond with surety approved by the Governor.

(8) Persons, other than those employed by a company, who by contractual or other rights, perform mine inspection work in any capacity, shall be familiar with mining and possess experience equal to that required of a state mine inspector. They shall also be held responsible and liable for their conduct in the performance of their inspections and related acts. This subsection (8) shall not apply to persons excluded by other laws or those who by agreement with the mine operator make mine visits for technical and investigative work.

HB 497, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.109 is amended to read as follows:

(1) ***For purposes of this chapter, a certified mine electrician means an individual who possesses the experience described in subsection (2) of this section and who has successfully completed all subparts of the mine electrician's examination administered by the department*** [~~An individual is a qualified and certified person, within the meaning of this chapter, to perform electrical work, other than work on energized surface, high voltage lines, if:~~

~~(a) He has been qualified and certified as a coal mine electrician by the department; or~~

~~(b) He has at least one (1) year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed the coal mine electrical training program administered or approved by the department; or~~

~~(c) He has at least one (1) year of experience in performing electrical work underground in a coal mine, in the surface work, areas of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of five (5) written tests administered by the department and required in subsection (2) of this section~~].

(2) ***Before an applicant for certification as a mine electrician may take the examination for same, he shall document, in a form prescribed by and acceptable to the department, that he has directly performed mine electrical duties under the immediate supervision of a certified mine electrician for at least one (1) year*** [~~The series of five (5) written tests shall include the following categories:~~

~~(a) Direct current theory and application;~~

~~(b) Alternating current theory and application;~~

~~(c) Electric equipment and circuits;~~

~~(d) Permissibility of electric equipment; and~~

~~(e) Requirements of both federal and state laws~~].

(3) A score of at least eighty percent (80%) on each ***subpart of the mine electrician's examination administered by the department shall*** [~~of the five (5) written tests will~~] be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that one (1) percentage point shall be added to an individual's score in each ***subpart*** [~~test~~] for each additional year of experience beyond the one (1) year minimum requirement specified in subsection ***(2)***[~~(1)(c)~~] of this section; however, [~~in no case shall~~] an individual ***shall not*** be given more than five (5) percentage points for [~~such~~] practical experience.

(4) An individual may, within thirty (30) days from the date on which he received notification from the department of his test scores, repeat those on which he received an unsatisfactory score. If further retesting is necessary after this initial repetition, a minimum of thirty (30) days from the date of receipt of notification of the initial retest scores shall elapse prior to [~~such~~] further retesting.

(5) ***A certified mine electrician shall maintain certification only by successfully completing a course of annual retraining approved by the department, which shall consist of not less than twelve (12) hours of retraining*** [~~An individual qualified and certified in accordance with this section shall, in order to retain qualification and certification, satisfactorily complete a retraining program annually~~].

The Committee Substitute to **HB 497** is as follows:

HB 497, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.109 is amended to read as follows:

(1) ***For purposes of this chapter, a certified mine electrician means an individual who possesses the experience described in subsection (2) of this section and who has successfully completed all subparts of the mine electrician's examination administered by the department*** [~~An individual is a qualified and certified person, within the meaning of this chapter, to perform electrical work, other than work on energized surface, high voltage lines, if:~~

~~(a) He has been qualified and certified as a coal mine electrician by the department; or~~

~~(b) He has at least one (1) year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed the coal mine electrical training program administered or approved by the department; or~~

~~(c) He has at least one (1) year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of five (5) written tests administered by the department and required in subsection (2) of this section~~].

(2) ***Before an applicant for certification as a mine electrician may take the examination for same, he shall document, in a form prescribed by and acceptable to the department, that he has at least one (1) year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment*** [~~The series of five (5) written tests shall include the following categories:~~

~~(a) Direct current theory and application;~~

~~(b) Alternating current theory and application;~~

~~(c) Electric equipment and circuits;~~

~~(d) Permissibility of electric equipment; and~~

~~(e) Requirements of both federal and state laws~~].

(3) A score of at least eighty percent (80%) on each ***subpart of the mine electrician's examination administered by the department shall*** [~~of the five (5) written tests will~~] be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that one (1) percentage point shall be added to an individual's score in each ***subpart*** [~~test~~] for each additional year of experience beyond the one (1) year minimum requirement specified in subsection ***(2)***[~~(1)(c)~~] of this section; however, [~~in no case shall~~] an individual ***shall not*** be given more than five (5) percentage points for [~~such~~] practical experience.

(4) An individual may, within thirty (30) days from the date on which he received notification from the department of his test scores, repeat those on which he received an unsatisfactory score. If further retesting is necessary after this initial repetition, a minimum of thirty (30) days from the date of receipt of notification of the initial retest scores shall elapse prior to [~~such~~] further retesting.

(5) ***A certified mine electrician shall maintain certification only by successfully completing a course of annual retraining approved by the department, which shall consist of not less than twelve (12) hours of retraining, eight (8) of which shall be in the classroom*** [~~An individual qualified and certified in accordance with this section shall, in order to retain qualification and certification, satisfactorily complete a retraining program annually~~].

HB 562, AN ACT relating to the leasing and vesting of title to severed mineral interests in surface owners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.460 is amended to read as follows:

As used in KRS 353.462 to 353.476 ***and this Act***, the following definitions shall apply:

(1) A "severed mineral interest" is any whole or fractional interest in any or all minerals which have been severed from the surface estate by grant, exception, reservation or other means.

(2) An "unknown or missing owner" is any person vested with a severed mineral interest and whose present identity or location cannot be determined from the records of the county in which the land is located or by diligent inquiry in the vicinity of the owner's last known place of residence, and shall include his unknown heirs, successors and assigns.

(3) A "surface owner" is any person or entity vested with a whole or undivided fee simple interest or other freehold interest in the surface estate overlying a severed mineral interest, but does not include an owner of a right of way, easement, leasehold, or any other lesser estate.

Section 2. KRS 353.462 is amended to read as follows:

The Circuit Court of the county wherein the severed mineral interests sought to be leased, or the major portion thereof, is situated shall have jurisdiction of the proceedings authorized under KRS 353.464 through 353.476 ***and this Act.***

Section 3. KRS 353.468 is amended to read as follows:

(1) If, upon presentation to the Circuit Court of the petition, the answer of the trustee ad litem and the proof presented by the petitioner in ***the*** [~~such~~] case, it appears to the court that development of the severed mineral interests will be advantageous to the unknown or missing owners, the court shall declare a trust in the lands or estate or interest therein, appoint a trustee therefor and authorize the trustee to sell, execute and deliver a valid mineral lease covering the severed mineral interests in and underlying the lands.

(2) Should the court appoint a trustee pursuant to subsection (1) of this section, the court shall, in its decree, require the trustee to give a bond in favor of the owners of the severed mineral interest which is to be leased and shall fix the amount of the bond. The decree of the court shall further provide for all of the terms and provisions of the lease which the trustee is authorized to make. It shall be discretionary with the court as to whether or not the trustee's sale of lease shall be public or private and the decree shall provide therefor, and if a public sale be authorized; the court shall in its decree fix and determine the notice to be given. The sale shall be for cash, payable on confirmation of sale. No appraisal shall be required.

(3) The trustee shall proceed in compliance with the provisions of the decree to sell the lease authorized thereby, and after making the sale shall make a report thereof to the court. Upon filing the report, the court may hear evidence as to whether or not the sale price is reasonable, and if the court is satisfied with the sale and the amount received therefor, the sale shall be confirmed by the court and the lease shall be executed by the trustee with the approval of the court endorsed on the face thereof.

(4) The court shall not authorize a trustee's lease upon the severed mineral interest of any owner whose identity and whereabouts is known, or can be ascertained by diligent inquiry, or is discovered as a result of the action brought hereunder; and any [~~such~~] owner may intervene as a matter of right at any time prior to the entry of judgment approving the trustee's lease, for the purpose of establishing his title to the severed mineral interests, and if the mineral owners claim is established to the satisfaction of the court, the court shall dismiss the action as to the intervenor's interest at plaintiff's cost.

(5) The trustee shall collect the proceeds, if any, from the sale of the lease and hold and invest the same for the use and benefit of the unknown or missing owners. The court upon its own motion or upon motion of the trustee may authorize the trustee to expend an amount not to exceed ten percent (10%) of the funds collected by the trustee for the purpose of instituting a search for the unknown or missing owners.

(6) Within seven (7) years after the date of ***entry of the initial judgment authorizing a lease*** [~~first commercial production of the severed mineral interests under the trustee's lease~~], any person being an unknown or missing owner of the severed mineral interest or any undivided portion thereof[~~,~~] may petition the Circuit Court to re-docket the action in which the trustee's lease was sought and approved in accordance with subsection (3) of this section, and may thereupon present ***the*** [~~such~~] proof as the court may deem necessary to establish his identity and title to the severed mineral interest or any portion thereof. If the court finds that the unknown or missing owners have established their identity and title, the trustee shall be directed to distribute the funds in his hands attributable to the unknown or missing owners' interest, and shall assign all future proceeds from ***the*** [~~said~~] lease to the owners as their interests appear and shall deliver to the owners a recordable instrument documenting their title to the severed mineral interest, which instrument shall bear the endorsement and approval of the Circuit Court on the face thereof.

(7) The sale of and execution of any mineral lease under the provisions of this Act shall be binding in all respects as to all of the interest in the mineral and the right to mine and remove the same owned

by the defendant to the action in the same manner as if the defendant had personally signed and delivered the lease. The lease shall be binding upon the defendant's heirs, devisees, personal representatives, successors or assigns.

(8) In the event of the death, resignation, refusal or inability of the trustee to act, the court, upon its own motion or upon the motion of the depository, mineral lessee, or surface owner overlying the severed mineral interest involved in the litigation, shall appoint a successor trustee.

(9) After the entry of the initial judgment authorizing a lease all subsequent proceedings pertaining to the lands and the severed mineral interest involved in the initial litigation, including subsequent leasing proceedings or proceedings by the trustee requesting authority to execute and deliver additional documents pertaining to a mineral lease, shall be commenced and prosecuted in the same case as the proceedings for the initial lease. The acting trustee at the time of any subsequent proceedings shall act as the trustee in the proceedings. The court shall retain continuing authority and jurisdiction to conduct all subsequent proceedings.

(10) (a) Regardless of whether there has been production of the severed mineral interest, if the owners of the severed mineral interests which are the subject of a trustee's lease executed and delivered in accordance with this Act remain unknown or missing for a period of seven (7) years from the date of entry of the initial judgment authorizing a lease, the trustee shall file a motion with the court on or before the eighth anniversary of the date of the lease naming the then present surface owners as additional parties defendant and requesting the surface owners to appear and present proof to the satisfaction of the court that they are vested with fee simple title to the surface estate. Upon a finding by the court that the surface estate is vested in fee simple in the surface owners, the court shall order the trustee to convey to the surface owners by recordable instrument the unknown or missing owners' interest in the severed mineral interests, which conveyance shall be approved by endorsement by the court on the face thereof.

(b) The trustee shall pay to the surface owner the remaining balance in the depository which has accrued to the credit of the severed mineral interests to the date of his final report after payment of all allowable fees, taxes, expenses and court costs including a fee to be paid to the trustee in an amount determined by the court.

(c) From and after the date of the conveyance from the trustee to the surface owners executed and delivered in accordance with paragraph (a) of this subsection, the surface owners shall be entitled to receive all proceeds from the lease of the severed mineral interests.

(d) Upon the delivery of the conveyance directed in paragraph (a) of this subsection, and after the payment as directed in paragraph (b) of this subsection, the trustee shall make his final report to the court, and upon approval thereof, the court shall order the trust terminated and the trustee and his bond discharged.

Section 4. KRS 353.476 is amended to read as follows:

After [~~the expiration of seven (7) years from the date of first commercial production of the severed mineral pursuant to the terms of the lease authorized hereunder, or~~] the expiration of seven (7) years from the date of entry of judgment authorizing the lease [~~in the event there is no commercial production, whichever date last occurs~~], no action may be brought by any unknown or missing owner to recover any past or future proceeds accrued or to be accrued from the lease herein authorized[~~. After the expiration of seven (7) years from the date of first commercial production of the severed mineral pursuant to the terms of the lease authorized hereunder~~], ***and*** no action may be instituted by any unknown or missing owner to recover any right, title or interest in and to the severed mineral interest subject to the lease.

SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) (a) Surface owners may gain title to severed mineral interests owned by unknown or missing owners under the theory of adverse possession in the following manner and under the following conditions. If the title to any severed mineral interest is vested in an unknown owner or missing owner and the surface owner overlying the severed mineral interest desires to acquire title to it by adverse possession, the surface owner may institute a proceeding in the Circuit Court of the county in which the severed mineral interest or the major portion thereof lies. The surface owner shall join as defendants to the proceeding all those persons having record title to the severed mineral interest who are unknown or missing and the unknown heirs, successors and assigns of all such persons. The persons named as defendants and who are the unknown or missing owners as defined herein shall stand for and represent the full title and the whole interest of the unknown or missing owners in the severed mineral interest or estate or interest therein. All parties not in being who might have some contingent or future interest therein, and all persons whether in being or not in being, having any interest, present, future or contingent, in the severed mineral interest sought to be acquired, shall be fully bound by the proceedings. The surface owner shall also join as defendants all other surface owners, if any, who are not plaintiffs.

(b) There shall be filed a verified petition specifically setting forth the following:

1. The legal description of the lands.

2. The interest of the plaintiff as a surface owner of the lands.

3. The apparent interest of the defendant or defendants in the lands.

4. The last known address, residence or whereabouts which plaintiff may have been able to ascertain for each defendant who constitutes an unknown or missing owner and the sources of information which plaintiff has checked in an attempt to locate the present address, residence or whereabouts of each defendant.

5. That plaintiff, upon diligent inquiry, cannot determine the unknown or missing owner defendant's current address, residence or whereabouts and that upon due inquiry, said defendants cannot be found.

6. That the surface owners desire to acquire title to the severed mineral interest by adverse possession.

7. The petition shall also include as defendants and set forth the apparent interest of all other persons holding a legal interest in the surface estate.

(2) Service of process shall be as provided by the Kentucky Rules of Civil Procedure and there shall be filed a lis pendens notice in the county clerk's office of the county where the mineral estate or the larger portion thereof lies. Immediately upon the filing of the petition, the petitioner shall advertise as provided in KRS Chapter 424. Both the advertisement and the lis pendens notice shall contain the names of all of the parties and their last known addresses, the date and recording data of the original deed or other conveyance which created the mineral severance, an adequate description of the land as contained therein, the source of title of the last known owners of the severed mineral interests and a statement of the purpose for which the action is brought. The court, in its discretion, may order advertisement elsewhere or by additional means if there is reason to believe that additional advertisement might result in identifying and locating the unknown or missing owners.

(3) (a) If any defendant who constitutes an unknown or missing owner answers or otherwise appears personally, and the court finds that he is the unknown or missing owner of the severed mineral interest, the court shall enter an order determining the interest of such defendant and he shall be dismissed from the action. After compliance with the notice requirements provided herein, the court shall take evidence and take testimony as to the matters set forth in the petition. If upon taking evidence and hearing testimony it appears that all material allegations of the complaint are true and that there has been compliance with the notice provisions, the court shall enter a judgment that the owner of the surface estate and his heirs, successors and assigns, is from the date of the judgment exercising presumptive adverse possession of the severed mineral interests by reason of his ownership.

(b) The plaintiff shall cause a report of the proceedings of the evidence received and testimony taken at the hearing on the petition to be filed and made a part of the case record.

(c) If the owners of the severed mineral interests remain unknown or missing for a period of seven (7) years from the date of the judgment to the effect that the owner of the surface estate overlying the severed mineral interest is exercising presumptive adverse possession over the same; or, the owners of the severed mineral interest remain unknown or missing for a period of one (1) year from the date of the judgment to the effect that the owner of the surface estate overlying the severed mineral interest in exercising presumptive adverse possession over the same and the severance took place more than twenty (20) years prior to the date of the filing of the original petition; the plaintiff or his then successor in title shall file a motion with the court renewing or supplementing the allegations of the original petition and particularly containing allegations relative to the last known address, residence or whereabouts which the plaintiff may have been able to ascertain for each defendant who constitutes an unknown or missing owner and the sources of information which plaintiff has checked in an attempt to locate the present address, residence or whereabouts of each defendant since the date of filing of the original petition. The motion shall also contain an allegation that the plaintiff, upon diligent inquiry cannot determine the defendants' current address, residence or whereabouts and that upon due inquiry said defendants cannot be found. Notice of the hearing upon the motion shall be given in the same manner as notice of the hearing upon the original petition. If any defendant who constitutes an unknown or missing owner answers or otherwise appears in response to the motion, the court shall enter an order determining the interest of the owner and shall dismiss the action as to the defendant. As to all other defendants and after compliance with the notice requirements, the court shall again take evidence and hear testimony as to the matters set forth in the original petition and in the motion. If upon taking evidence and hearing testimony it appears that all material allegations of the original complaint and of the motion are true and that there has been compliance with the notice provisions and payment by plaintiff of all taxes legally assessed on the severed mineral interests, the court shall enter a judgment declaring that the severed mineral interests are null and void due to adverse possession by the surface owner

and that fee title to the severed mineral interests is vested in the surface owner. The court or other officer appointed by the court shall then convey to the surface owners in proportion to their record interests by recordable instrument the unknown or missing owners' interest in the severed mineral interests.

(d) At any time subsequent to the entry of the judgment that the surface owner is exercising presumptive adverse possession of the severed mineral interests and prior to the entry of a judgment declaring the interest null and void, the owner of the severed mineral interest may intervene in the proceeding and upon notice to all parties who have appeared in the case as the court directs present proof of his ownership of the severed mineral interest. Upon a finding by the court that the intervenor is the owner of the severed mineral interest and upon payment to the plaintiff of all real estate taxes upon the severed mineral interest theretofore paid by the plaintiff and reasonable attorney fees and costs as the court may allow, the court shall enter an order determining the interest of the owner and shall dismiss the action as to the intervenor.

(4) If any surface owner is named as a defendant and acquires an interest in the severed mineral interest by a judgment entered in accordance with paragraph (c) of subsection (3) of this section, the owner shall be liable to the plaintiff for his proportionate part of any taxes paid by plaintiff corresponding to the severed mineral interest and reasonable attorney fees and costs as the court may allow and a judgment may be entered therefor in favor of the plaintiff if they are not paid as provided by the court.

(5) A trustee proceeding pursuant to KRS 353.464 to KRS 353.476 may be commenced at any time prior to the entry of a judgment pursuant to Section 5 of this Act, but if commenced after a proceeding under Section 5 of this Act is commenced, it shall also join as defendants thereto the surface owner overlying the severed mineral interest. Any mineral lease executed as a result of the trustee proceeding pursuant to KRS 353.464 to KRS 353.476 shall be binding upon any subsequent owner of the severed mineral interest whose interest was acquired by judgment entered in accordance with subsection (10) of Section 3 of this Act or Section 5 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) This Act shall be liberally construed so that any deed issued pursuant to this Act shall convey merchantable title.

(2) Proceedings instituted under KRS 353.464 to KRS 353.476 before the effective date of this Act shall not be affected by this Act.

Section 7. The following KRS sections are repealed:

353.470 When trustee may convey title in mineral interest to surface owner — Payment to surface owner — Final report of trustee — Termination of trust.

353.472 Payment to surface owner when leased mineral never produced commercially.

The Committee Substitute to **HB 562** is as follows:

HB 562, AN ACT relating to the leasing and vesting of title to severed mineral interests in surface owners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.460 is amended to read as follows:

As used in KRS 353.462 to 353.476 ***and this Act***, the following definitions shall apply:

(1) A "severed mineral interest" is any whole or fractional interest in any or all minerals which have been severed from the surface estate by grant, exception, reservation or other means.

(2) An "unknown or missing owner" is any person vested with a severed mineral interest and whose present identity or location cannot be determined from the records of the county in which the land is located or by diligent inquiry in the vicinity of the owner's last known place of residence, and shall include his unknown heirs, successors and assigns.

(3) A "surface owner" is any person or entity vested with a whole or undivided fee simple interest or other freehold interest in the surface estate overlying a severed mineral interest, but does not include an owner of a right of way, easement, leasehold, or any other lesser estate.

Section 2. KRS 353.462 is amended to read as follows:

The Circuit Court of the county wherein the severed mineral interests sought to be leased, or the major portion thereof, is situated shall have jurisdiction of the proceedings authorized under KRS 353.464 through 353.476 ***and this Act***.

Section 3. KRS 353.468 is amended to read as follows:

(1) If, upon presentation to the Circuit Court of the petition, the answer of the trustee ad litem and the proof presented by the petitioner in ***the*** [~~such~~] case, it appears to the court that development of the severed mineral interests will be advantageous to the unknown or missing owners, the court shall declare a trust in the lands or estate or interest therein, appoint a trustee therefor and authorize the trustee to sell, execute and deliver a valid mineral lease covering the severed mineral interests in and underlying the lands.

(2) Should the court appoint a trustee pursuant to subsection (1) of this section, the court shall, in its decree, require the trustee to give a bond in favor of the owners of the severed mineral interest which is to be leased and shall fix the amount of the bond. The decree of the court shall further provide for all of the terms and provisions of the lease which the trustee is authorized to make. It shall be discretionary with the court as to whether or not the trustee's sale of lease shall be public or private and the decree shall provide therefor, and if a public sale be authorized, the court shall in its decree fix and determine the notice to be given. The sale shall be for cash, payable on confirmation of sale. No appraisal shall be required.

(3) The trustee shall proceed in compliance with the provisions of the decree to sell the lease authorized thereby, and after making the sale shall make a report thereof to the court. Upon filing the report, the court may hear evidence as to whether or not the sale price is reasonable, and if the court is satisfied with the sale and the amount received therefor, the sale shall be confirmed by the court and the lease shall be executed by the trustee with the approval of the court endorsed on the face thereof.

(4) The court shall not authorize a trustee's lease upon the severed mineral interest of any owner whose identity and whereabouts is known, or can be ascertained by diligent inquiry, or is discovered as a result of the action brought hereunder; and any [~~such~~] owner may intervene as a matter of right at any time prior to the entry of judgment approving the trustee's lease, for the purpose of establishing his title to the severed mineral interests, and if the mineral owners claim is established to the satisfaction of the court, the court shall dismiss the action as to the intervenor's interest at plaintiff's cost.

(5) The trustee shall collect the proceeds, if any, from the sale of the lease and hold and invest the same for the use and benefit of the unknown or missing owners. The court upon its own motion or upon motion of the trustee may authorize the trustee to expend an amount not to exceed ten percent (10%) of the funds collected by the trustee for the purpose of instituting a search for the unknown or missing owners.

(6) Within seven (7) years after the date of ***entry of the initial judgment authorizing a lease*** [~~first commercial production of the severed mineral interests under the trustee's lease~~], any person being an unknown or missing owner of the severed mineral interest or any undivided portion thereof[~~,~~] may petition the Circuit Court to re-docket the action in which the trustee's lease was sought and approved in accordance with subsection (3) of this section, and may thereupon present ***the*** [~~such~~] proof as the court may deem necessary to establish his identity and title to the severed mineral interest or any portion thereof. If the court finds that the unknown or missing owners have established their identity and title, the trustee shall be directed to distribute the funds in his hands attributable to the unknown or missing owners' interest, and shall assign all future proceeds from ***the*** [~~said~~] lease to the owners as their interests appear and shall deliver to the owners a recordable instrument documenting their title to the severed mineral interest, which instrument shall bear the endorsement and approval of the Circuit Court on the face thereof.

(7) The sale of and execution of any mineral lease under the provisions of this Act shall be binding in all respects as to all of the interest in the mineral and the right to mine and remove the same owned by the defendant to the action in the same manner as if the defendant had personally signed and delivered the lease. The lease shall be binding upon the defendant's heirs, devisees, personal representatives, successors or assigns.

(8) In the event of the death, resignation, refusal or inability of the trustee to act, the court, upon its own motion or upon the motion of the depository, mineral lessee, or surface owner overlying the severed mineral interest involved in the litigation, shall appoint a successor trustee.

(9) After the entry of the initial judgment authorizing a lease all subsequent proceedings pertaining to the lands and the severed mineral interest involved in the initial litigation, including subsequent leasing proceedings or proceedings by the trustee requesting authority to execute and deliver additional documents pertaining to a mineral lease, shall be commenced and prosecuted in the same case as the proceedings for the initial lease. The acting trustee at the time of any subsequent proceedings shall act as the trustee in the proceedings. The court shall retain continuing authority and jurisdiction to conduct all subsequent proceedings.

(10) (a) Regardless of whether there has been production of the severed mineral interest, if the owners of the severed mineral interests which are the subject of a trustee's lease executed and delivered in accordance with this Act remain unknown or missing for a period of seven (7) years from the date of entry of the

initial judgment authorizing a lease, the trustee shall file a motion with the court on or before the eighth anniversary of the date of the lease naming the then present surface owners as additional parties defendant and requesting the surface owners to appear and present proof to the satisfaction of the court that they are vested with fee simple title to the surface estate. Upon a finding by the court that the surface estate is vested in fee simple in the surface owners, the court shall order the trustee to convey to the surface owners by recordable instrument the unknown or missing owners' interest in the severed mineral interests, which conveyance shall be approved by endorsement by the court on the face thereof.

(b) The trustee shall pay to the surface owner the remaining balance in the depository which has accrued to the credit of the severed mineral interests to the date of his final report after payment of all allowable fees, taxes, expenses and court costs including a fee to be paid to the trustee in an amount determined by the court.

(c) From and after the date of the conveyance from the trustee to the surface owners executed and delivered in accordance with paragraph (a) of this subsection, the surface owners shall be entitled to receive all proceeds from the lease of the severed mineral interests.

(d) Upon the delivery of the conveyance directed in paragraph (a) of this subsection, and after the payment as directed in paragraph (b) of this subsection, the trustee shall make his final report to the court, and upon approval thereof, the court shall order the trust terminated and the trustee and his bond discharged.

Section 4. KRS 353.476 is amended to read as follows:

After [~~the expiration of seven (7) years from the date of first commercial production of the severed mineral pursuant to the terms of the lease authorized hereunder, or~~] the expiration of seven (7) years from the date of entry of judgment authorizing the lease [~~in the event there is no commercial production, whichever date last occurs~~], no action may be brought by any unknown or missing owner to recover any past or future proceeds accrued or to be accrued from the lease herein authorized[~~. After the expiration of seven (7) years from the date of first commercial production of the severed mineral pursuant to the terms of the lease authorized hereunder~~], *and* no action may be instituted by any unknown or missing owner to recover any right, title or interest in and to the severed mineral interest subject to the lease.

SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) (a) Surface owners may gain title to severed mineral interests owned by unknown or missing owners under the theory of adverse possession in the following manner and under the following conditions. If the title to any severed mineral interest is vested in an unknown owner or missing owner and the surface owner overlying the severed mineral interest desires to acquire title to it by adverse possession, the surface owner may institute a proceeding in the Circuit Court of the county in which the severed mineral interest or the major portion thereof lies. The surface owner shall join as defendants to the proceeding all those persons having record title to the severed mineral interest who are unknown or missing and the unknown heirs, successors and assigns of all such persons. The persons named as defendants and who are the unknown or missing owners as defined herein shall stand for and represent the full title and the whole interest of the unknown or missing owners in the severed mineral interest or estate or interest therein. All parties not in being who might have some contingent or future interest therein, and all persons whether in being or not in being, having any interest, present, future or contingent, in the severed mineral interest sought to be acquired, shall be fully bound by the proceedings. The surface owner shall also join as defendants all other surface owners, if any, who are not plaintiffs.

(b) There shall be filed a verified petition specifically setting forth the following:

1. The legal description of the lands.

2. The location of the property by the use of the Carter Coordinate System.

3. The interest of the plaintiff as a surface owner of the lands and the source of title of the plaintiff interest.

4. The apparent interest of the defendant or defendants in the lands and the source of title of the defendant's or defendants' interest.

5. The last known address, residence or whereabouts which plaintiff may have been able to ascertain for each defendant who constitutes an unknown or missing owner and the sources of information which plaintiff has checked in an attempt to locate the present address, residence or whereabouts of each defendant.

6. That plaintiff, upon diligent inquiry, cannot determine the unknown or missing owner defendant's current address, residence or whereabouts and that upon due inquiry, said defendants cannot be found.

7. That the surface owners desire to acquire title to the severed mineral interest by adverse possession.

(c) There shall be attached to the verified petition a certificate of legal counsel licensed to practice in Kentucky certifying that he has personally examined the records in both the county clerk's office and the property valuation administrator's office in the county in which the property described in the petition is located and that he cannot determine from the records in either of those offices; either the name of the defendant unknown or missing mineral interest owner, or the address of the defendant unknown or missing mineral interest owner, or both the name and address.

(2) Service of process shall be as provided by the Kentucky Rules of Civil Procedure and there shall be filed a lis pendens notice in the county clerk's office of the county where the mineral estate or the larger portion thereof lies. Immediately upon the filing of the petition, the petitioner shall advertise as provided in KRS Chapter 424. Both the advertisement and the lis pendens notice shall contain the names of all of the parties and their last known addresses, the date and recording data of the original deed or other conveyance which created the mineral severance, an adequate description of the land as contained therein, the source of title of the last known owners of the severed mineral interests and a statement of the purpose for which the action is brought. The court, in its discretion, may order advertisement elsewhere or by additional means if there is reason to believe that additional advertisement might result in identifying and locating the unknown or missing owners.

(3) (a) If any defendant who constitutes an unknown or missing owner answers or otherwise appears personally, and the court finds that he is the unknown or missing owner of the severed mineral interest, the court shall enter an order determining the interest of such defendant and he shall be dismissed from the action. After compliance with the notice requirements provided herein, the court shall take evidence and take testimony as to the matters set forth in the petition. If upon taking evidence and hearing testimony it appears that all material allegations of the complaint are true and that there has been compliance with the notice provisions, the court shall enter a judgment that the owner of the surface estate and his heirs, successors and assigns, is from the date of the judgment exercising presumptive adverse possession of the severed mineral interests by reason of his ownership.

(b) The plaintiff shall cause a report of the proceedings of the evidence received and testimony taken at the hearing on the petition to be filed and made a part of the case record.

(c) If the owners of the severed mineral interests remain unknown or missing for a period of seven (7) years from the date of the judgment to the effect that the owner of the surface estate overlying the severed mineral interest is exercising presumptive adverse possession over the same, the plaintiff or his then successor in title shall file a motion with the court renewing or supplementing the allegations of the original petition and particularly containing allegations relative to the last known address, residence or whereabouts which the plaintiff may have been able to ascertain for each defendant who constitutes an unknown or missing owner and the sources of information which plaintiff has checked in an attempt to locate the present address, residence or whereabouts of each defendant since the date of filing of the original petition. The motion shall also contain an allegation that the plaintiff, upon diligent inquiry cannot determine the defendants' current address, residence or whereabouts and that upon due inquiry said defendants cannot be found. Notice of the hearing upon the motion shall be given in the same manner as notice of the hearing upon the original petition. If any defendant who constitutes an unknown or missing owner answers or otherwise appears in response to the motion, the court shall enter an order determining the interest of the owner and shall dismiss the action as to the defendant. As to all other defendants and after compliance with the notice requirements, the court shall again take evidence and hear testimony as to the matters set forth in the original petition and in the motion. If upon taking evidence and hearing testimony it appears that all material allegations of the original complaint and of the motion are true and that there has been compliance with the notice provisions and payment by plaintiff of all taxes legally assessed on the severed mineral interests, the court shall enter a judgment declaring that the severed mineral interests are null and void due to adverse possession by the surface owner and that fee title to the severed mineral interests is vested in the surface owner. The court or other officer appointed by the court shall then convey to the surface owners in proportion to their record interests by recordable instrument the unknown or missing owners' interest in the severed mineral interests.

(d) At any time subsequent to the entry of the judgment that the surface owner is exercising presumptive adverse possession of the severed mineral interests and prior to the entry of a judgment declaring the interest null and void, the owner of the severed mineral interest may intervene in the proceeding and upon notice to all parties who have appeared in the case as the court directs present proof of his ownership of the severed mineral interest. Upon a finding by the court that the intervenor is the owner of the severed mineral interest and upon payment to the plaintiff of all real estate taxes upon the severed mineral interest theretofore paid by the plaintiff and reasonable attorney fees and costs as the court may allow, the court shall enter an order determining the interest of the owner and shall dismiss the action as to the intervenor.

(4) If any surface owner is named as a defendant and acquires an interest in the severed mineral interest by a judgment entered in accordance with paragraph (c) of subsection (3) of this section, the owner shall be liable to the plaintiff for his proportionate part of any taxes paid by plaintiff corresponding to the severed mineral interest and reasonable attorney fees and costs as the court may allow and a judgment may be entered therefor in favor of the plaintiff if they are not paid as provided by the court.

(5) A trustee proceeding pursuant to KRS 353.464 to KRS 353.476 may be commenced at any time prior to the entry of a judgment pursuant to Section 5 of this Act, but if commenced after a proceeding under Section 5 of this Act is commenced, it shall also join as defendants thereto the surface owner overlying the severed mineral interest. Any mineral lease executed as a result of the trustee proceeding pursuant to KRS 353.464 to KRS 353.476 shall be binding upon any subsequent owner of the severed mineral interest whose interest was acquired by judgment entered in accordance with subsection (10) of Section 3 of this Act or Section 5 of this Act.

(6) Any currently valid and unexpired mineral lease which has been executed by an unknown or missing mineral interest owner, or by his predecessor in title, shall be binding upon all surface owners who acquire title to severed mineral interests under this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) This Act shall be liberally construed so that any deed issued pursuant to this Act shall convey merchantable title.

(2) Proceedings instituted under KRS 353.464 to KRS 353.476 before the effective date of this Act shall not be affected by this Act.

Section 7. The following KRS sections are repealed:

353.470 When trustee may convey title in mineral interest to surface owner — Payment to surface owner — Final report of trustee — Termination of trust.

353.472 Payment to surface owner when leased mineral never produced commercially.

The Committee on Health and Welfare reported **HB 102** with Committee Substitute attached thereto, **HB 118** with Committee Substitute attached thereto, **HB 341** with Committee Substitute attached thereto, and SB 88 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 102, AN ACT relating to out-of-state pharmacies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) Every pharmacy operating outside this Commonwealth which, other than on an incidental basis, ships, mails, solicits, or dispenses prescriptions or provides pharmacy services within this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035 issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee, which includes expenses for in-state inspections by the board; however the pharmacies may also be assessed reasonable board expenses for out-of-state inspections.

(2) Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the out-of state pharmacy.

(3) Each out-of-state pharmacy shall provide a means to facilitate communication between the patient in this Commonwealth and a pharmacist operating within this Commonwealth who shall have access to the patient's prescription records.

(4) Each out-of-state pharmacy shall designate a resident agent and a resident office in this Commonwealth for the service of process.

(5) Each out-of-state pharmacy shall have a pharmacist in charge who holds a current license to practice pharmacy in Kentucky and who shall be responsible for complying with the laws of Kentucky pertaining to provision of pharmacy services and the filling of prescriptions for delivery into Kentucky.

Section 2. KRS 315.990 is amended to read as follows:

(1) Any person violating any provision of KRS Chapter 315 shall be fined for each offense not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Each week that any provision of KRS 315.020, 315.030, [~~or~~] 315.035, ***or Section 1 of this Act*** is violated shall also constitute a separate offense.

(2) The board may levy an administrative fine not to exceed five hundred dollars ($500) for each offense, for any violation of KRS 315.121. All such fines shall be deposited to the credit of the licensing board to be used by the board in carrying out the provisions of this chapter.

The Committee Substitute to **HB 102** is as follows:

HB 102, AN ACT relating to out-of-state pharmacies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) Every pharmacy located outside this Commonwealth which, other than on an incidental basis, does business within this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035.

(2) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall disclose to the board the location, names and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to residents of the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer or pharmacist.

(3) Every out-of-state pharmacy granted an out-of-state pharmacy permit shall comply with all statutorily authorized directions and requests for information from any regulatory agency of the Commonwealth and from the board in accordance with the provisions of this section. The out-of-state pharmacy shall maintain at all times a valid unexpired permit, license, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to seeking a permit from the Kentucky Board of Pharmacy, the out-of-state pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located. Thereafter, the out-of-state pharmacy granted a permit shall submit to the Kentucky Board of Pharmacy a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the state in which it is located.

(4) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed.

(5) Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the out-of state pharmacy.

(6) Each out-of-state pharmacy shall, during its regular hours of operation, but not less than six (6) days per week and for a minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state pharmacy and available to both the patient and each licensed and practicing in-state pharmacist for the purpose of facilitating communication between the patient and the Kentucky pharmacist with access to the patient's prescription records. A toll-free number shall be placed on a label affixed to each container of drugs dispensed to patients within the Commonwealth.

(7) Each out-of-state pharmacy shall have a pharmacist in charge who shall be responsible for compliance by the pharmacy with the provisions of this section.

(8) Every out-of-state pharmacy which on the effective date of this Act provides pharmacy services within the Commonwealth, including pharmacy services provided under programs in effect through collective bargaining agreements, shall be exempt from the provisions of this Act.

Section 2. KRS 315.990 is amended to read as follows:

(1) Any person violating any provision of KRS Chapter 315 shall be fined for each offense not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Each week that any provision of KRS 315.020, 315.030, or 315.035 is violated shall also constitute a separate offense.

(2) The board may levy an administrative fine not to exceed five hundred dollars ($500) for each offense, for any violation of KRS 315.121. All such fines shall be deposited to the credit of the licensing board to be used by the board in carrying out the provisions of this chapter.

(3) The board of pharmacy may refuse to issue or renew a permit, or may suspend, temporarily suspend, revoke, fine, or reasonably restrict any permit holder for any violation of Section 1 of this Act. Any administrative fine levied by the board shall not exceed five hundred dollars ($500) for any violation of Section 1 of this Act. All such fines shall be deposited to the credit of the licensing board to be used by the board of pharmacy in carrying out the provisions of this chapter.

HB 118, AN ACT relating to long-term care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.535 is amended to read as follows:

As used in KRS 216.537 to 216.590:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the ***Commission of Health Economics Control in*** Kentucky [~~health facilities and health services certificate of need and licensure board~~] to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, ***nursing facilities,*** nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Resident" means any person admitted to a long-term care facility as defined by this section.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the Cabinet for Human Resources.

(6) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities or other entities.

(7) "Willful interference" means a voluntary, intentional, knowing, or purposeful act or omission which hinders or impedes the performance of the duties and responsibilities of the ombudsman as set forth in this chapter.

Section 2. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, ***nursing facilities,*** nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the Cabinet for Human Resources.

SECTION 3. A NEW SECTION OF KRS 216.537 TO 216.590 IS CREATED TO READ AS FOLLOWS:

(1) Willful interference with representatives of the Office of the Long-Term Care Ombudsman in the performance of official duties, as set forth in the Older American's Act, 42 U.S.C. Section 3001 et seq., shall be unlawful.

(2) Retaliation and reprisals by a long-term care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.

(3) A violation of subsection (1) or (2) of this section shall be classified as a type B violation as defined in KRS 216.557. Each day the violation continues shall constitute a separate type B violation.

(4) The Cabinet for Human Resources shall authorize the acquisition of liability insurance for the protection of representatives of the long-term care ombudsman program who are not employed by the state,

to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 4. KRS 216.550 is amended to read as follows:

(1) The cabinet shall develop and implement a system for rating the quality of care provided by all long-term care facilities and, within six (6) months of July 15, 1982, shall promulgate rules and regulations establishing uniform criteria for the evaluation of long-term care facilities based on their compliance with licensure and statutory requirements in at least the following areas as relates to the particular level of care:

(a) Administration;

(b) Nursing service;

(c) Dietary and nutritional services;

(d) Life safety code;

(e) [~~Physical environment;~~

~~(f)~~] Physical and restorative therapy;

(f)[~~(g)~~] Social services and activities;

(g)[~~(h)~~] Drugs and biologicals;

(h)[~~(i)~~] Medical services;

(i)[~~(j)~~] Patient rights; and

(j)[~~(k)~~] Record keeping.

The [~~Such~~] regulations shall take into consideration the differences between types of long-term care facilities defined in KRS 216.535. No rating shall be assigned until ***the*** [~~such~~] regulations are effective pursuant to KRS Chapter 13.

(2) [~~The cabinet shall categorize areas listed in subsection (1) of this section into two (2) levels. Areas designated by the cabinet as "level I" shall be those areas which are essential to maintaining the health, safety, or security of patients. Areas designated by the cabinet as "level II" shall be those areas which are less directly related to the health, safety, or security of residents but which are important to the overall quality of care and services provided by long-term care facilities. In promulgating regulations pursuant to the provisions of this section, the cabinet may divide the areas listed in subsection (1) of this section into subareas for the purpose of appropriate categorization according to levels I and II.~~

~~(3)~~] The cabinet shall, at the time of the annual licensure inspection, evaluate all long-term care facilities in the Commonwealth and make a determination as to the degree of compliance by each facility with minimum standards under this section and the regulations promulgated thereunder as a basis for assigning a rating to each facility. The cabinet shall base its evaluation on the most recent annual licensure inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

(3)[~~(4)~~] In order to achieve a superior rating, a long-term care facility shall exceed minimum standards in a majority of all levels designated in subsection (1) of this section and shall comply with the minimum standards for the remaining levels. Within a period of time specified by the cabinet, any deficient level A or B area may be corrected by a long-term care facility in order to qualify for a superior rating. A facility receiving a superior rating shall have the words "superior facility" marked in block letters not less than one (1) inch in height on its license. A facility which meets, but does not exceed, minimum standards shall receive an unrated license. A facility which is not in compliance with minimum standards shall receive a conditional rating and shall have the words "conditional rating" marked in block letters not less than one (1) inch in height on its license. ***The*** [~~Such~~] facilities shall be rated as "conditional" from the time of the rating inspection until ***the*** [~~such~~] time [~~as~~] the cabinet finds the facility in compliance with minimum standards. Facilities receiving a conditional rating shall prepare, within ten (10) working days of the assignment of a rating, a plan for correction of all deficiencies and shall submit the plan to the cabinet for approval. Correction of all deficiencies, within the period approved by the cabinet, shall result in the termination of the conditional rating. Any deficiency that is classified as a type A or B violation shall result in the imposition of sanctions pursuant to KRS 216.555.

(4)[~~(5)~~] In making its determination as to the degree of compliance with the areas specified by subsection (1) of this section and the overall quality of care and services in a long-term care facility, the cabinet shall consider the results of interviews and surveys of a representative sampling of residents, families of residents, ombudsman committee members in the district in which the facility is located, guardians of residents, and staff of the long-term care facility.

(5)[~~(6)~~] If at any time during the rating year the cabinet finds a facility out of compliance with minimum standards under this section, the cabinet may alter a facility's rating pursuant to subsection ***(3)*** [~~(4)~~] of this section.

Section 5. KRS 216.560 is amended to read as follows:

(1) ***If*** [~~Where~~] a licensee has failed to correct a type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that ***the*** [~~such~~] deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) ***If*** [~~Where~~] a licensee has failed to correct a type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that ***the*** [~~such~~] deficiency continues beyond the date specified for correction. ***Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the license that adequate arrangements have been made to protect the health and safety of the residents.***

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for and paid a fine for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in a trust and revolving fund, which is hereby created, and the balance of ***the*** [~~said~~] fund shall lapse at the end of the fiscal year to the general fund.

Section 6. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(3) "Applicant" means any person, health facility, or health service requesting a certificate of need or license.

(4) "Cabinet" means the Cabinet for Human Resources which functions as the state health planning and development agency.

(5) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(6) "Capital expenditure minimum" means six hundred thousand dollars ($600,000) for the twelve (12) month period beginning July 15, 1980, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by ***the*** [~~such~~] facility would be subject to review

under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(7) "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, to substantially change the bed capacity or to substantially change a health service as covered by this chapter.

(8) "Commission" means the Commission for Health Economics Control in Kentucky.

(9) "Committee" means the Kentucky Health Care Cost Containment Advisory Committee.

(10) "Federal Act" means the National Health Planning Resources Development Act of 1974, P.L. 93-641, and subsequent amendments.

(11) "Formal review process" means the ninety (90) day certificate of need review conducted by the commission.

(12) "Health facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to health facilities and health services commonly referred to as hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, ***nursing facilities,*** nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance services, non-emergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and free standing hemodialysis units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

(13) "Health maintenance organization" means a public or private organization, organized under KRS 304.38-010 to 304.38-200, which:

(a) Is a qualified health maintenance organization under the federal act; or

(b) 1. Provides or otherwise makes available to enrolled participants health services, including at least the following basic health services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage;

2. Is compensated***,*** [~~(~~]except for co-payments***,***[~~)~~] for the provision of the basic health services listed in subparagraph 1. of this paragraph to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and

3. Provides physicians' services primarily;

a. Directly through physicians who are either employees or partners of ***the*** [~~such~~] organization; or

b. Through arrangements with individual physicians or one (1) or more groups of physicians***,*** [~~(~~]organized on a group practice or individual practice basis[~~)~~].

(14) "Health service area" means a particular geographical area designated by the Governor as a health service planning area.

(15) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(16) "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the Governor.

(17) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum except that ***the*** [~~such~~] term does not include medical equipment acquired by or on behalf of a medical laboratory. For purposes of this paragraph, "medical equipment expenditure minimum" means four hundred thousand dollars ($400,000) for the twelve (12) month period beginning July 15, 1982 and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of ***the*** [~~such~~] equipment shall be included.

(18) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(19) "Operating cost expenditure minimum" means two hundred fifty thousand dollars ($250,000) for the twelve (12) month period beginning July 15, 1982, and as adjusted annually thereafter.

(20) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(21) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state or political subdivision or instrumentality***,*** [~~(~~]including a municipal corporation***,***[~~)~~] of a state.

(22) "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of a local health planning agency, the cabinet or the commission;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for a local health planning agency, the cabinet or the commission regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for a local health planning agency, the cabinet or the commission;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the commission or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the commission.

(23) "Secretary" means the secretary of the Cabinet for Human Resources.

(24) "State health plan" means the document duly adopted by the State Health Planning Council and approved by the Governor.

(25) "State Health Planning Council" means the statewide health coordinating council or a state health planning agency established and designated by the Governor.

(26) "Substantial change in a health service" means the addition of a clinically related service not previously provided in the health facility which entails an annual operating cost which exceeds the operating cost expenditure minimum, or the addition of a health service for which there is a component of the state health plan, or the addition of a health service subject to licensure under this chapter, or the reduction or termination of a health service which had previously been provided in the health facility.

(27) "Substantial change in bed capacity" means the addition, reduction, relocation or redistribution of beds by licensure classification within a health facility.

(28) "To acquire" means to obtain from another by purchase, lease or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition ***shall be*** [~~is~~] deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, leased or acquired by comparable arrangement by one (1) person from another person.

(29) To "batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities or equipment affecting the same health service area.

(30) "To establish" means to construct, develop, or initiate a health facility.

(31) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in such contract have been met. An option to purchase or lease which is not binding, shall not be considered an enforceable contract.

(32) "To offer" means, when used in connection with health services, to hold a health facility or health maintenance organization out as capable of providing, or as having the means of providing, specified health services.

Section 7. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes, state veterans' nursing homes or non-conforming ambulance services as defined by administrative regulation.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists and other practitioners of the healing arts, provided that no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, ***if the*** [~~provided that such~~] facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide any health-related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination;

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time; and

(g) Personal care homes, as defined in KRS 216.750(2), located in any county containing over seven hundred fifty (750) square miles. If the local public health officer makes the determination that any personal care home with under sixteen (16) beds[~~,~~] in ***the*** [~~such~~] county[~~,~~] maintains adequate safety and health standards, the Cabinet for Human Resources shall issue a license to operate the personal care home.

(3) A certificate of need shall not be required for any skilled nursing facility, intermediate care facility, or nursing home to become licensed as nursing facility. A skilled nursing facility, intermediate care facility or, nursing home shall notify the cabinet of its intent to change licensure categories.

The Committee Substitute to **HB 118** is as follows:

HB 118, AN ACT relating to long-term care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.535 is amended to read as follows:

As used in KRS 216.537 to 216.590:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the ***Commission for Health Economics Control in*** Kentucky [~~health facilities and health services certificate of need and licensure board~~] to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, ***nursing facilities as defined in Public Law 100-203,*** nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Resident" means any person admitted to a long-term care facility as defined by this section.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the Cabinet for Human Resources.

(6) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities.

(7) "Willful interference" means an intentional, knowing, or purposeful act or omission which hinders or impedes the lawful performance of the duties and responsibilities of the ombudsman as set forth in this chapter.

Section 2. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the ***Commission for Health Economics Control in*** Kentucky [~~health facilities and health services certificate of need and licensure board~~] to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, ***nursing facilities as defined in Public Law 100-203,*** nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the Cabinet for Human Resources.

SECTION 3. A NEW SECTION OF KRS 216.537 TO 216.590 IS CREATED TO READ AS FOLLOWS:

(1) Willful interference, as defined in Section 1 of this Act, with representatives of the Office of the Long-Term Care Ombudsman in the lawful performance of official duties, as set forth in the Older American's Act, 42 U.S.C. Section 3001 et seq., shall be unlawful.

(2) Retaliation and reprisals by a long-term care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.

(3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars ($100) to five hundred dollars ($500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the Division of Aging Services.

(4) The Cabinet for Human Resources shall authorize the acquisition of liability insurance for the protection of representatives of the long-term care ombudsman program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 4. KRS 216.550 is amended to read as follows:

(1) The cabinet shall develop and implement a system for rating the quality of care provided by all long-term care facilities and, within six (6) months of July 15, 1982, shall promulgate rules and regulations establishing uniform criteria for the evaluation of long-term care facilities based on their compliance with licensure and statutory requirements in at least the following areas as relates to the particular level of care:

(a) Administration;

(b) Nursing service;

(c) Dietary and nutritional services;

(d) Life safety code;

(e) [~~Physical environment;~~

~~(f)~~] Physical and restorative therapy;

(f)[~~(g)~~] Social services and activities;

(g)[~~(h)~~] Drugs and biologicals;

(h)[~~(i)~~] Medical services;

(i)[~~(j)~~] Patient rights; and

(j)[~~(k)~~] Record keeping.

The [~~Such~~] regulations shall take into consideration the differences between types of long-term care facilities defined in KRS 216.535. No rating shall be assigned until ***the*** [~~such~~] regulations are effective pursuant to KRS Chapter 13.

(2) [~~The cabinet shall categorize areas listed in subsection (1) of this section into two (2) levels. Areas designated by the cabinet as "level I" shall be those areas which are essential to maintaining the health, safety, or security of patients. Areas designated by the cabinet as "level II" shall be those areas which are less directly related to the health, safety, or security of residents but which are important to the overall quality of care and services provided by long-term care facilities. In promulgating regulations pursuant to the provisions of this section, the cabinet may divide the areas listed in subsection (1) of this section into subareas for the purpose of appropriate categorization according to levels I and II.~~

~~(3)~~] The cabinet shall, at the time of the annual licensure inspection, evaluate all long-term care facilities in the Commonwealth and make a determination as to the degree of compliance by each facility with minimum standards under this section and the regulations promulgated thereunder as a basis for assigning a rating to each facility. The cabinet shall base its evaluation on the most recent annual licensure inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

(3)[~~(4)~~] In order to achieve a superior rating, a long-term care facility shall exceed minimum standards in a majority of all levels designated in subsection (1) of this section and shall comply with the minimum standards for the remaining levels. Within a period of time specified by the cabinet, any deficient level A or B area may be corrected by a long-term care facility in order to qualify for a superior rating. A facility receiving a superior rating shall have the words "superior facility" marked in block letters not less than one (1) inch in height on its license. A facility which meets, but does not exceed, minimum standards shall receive an unrated license. A facility which is not in compliance with minimum standards shall receive a conditional rating and shall have the words "conditional rating" marked in block letters not less than one (1) inch in height on its license. ***The*** [~~Such~~] facilities shall be rated as "conditional" from the time of the rating inspection until ***the*** [~~such~~] time [~~as~~] the cabinet finds the facility in compliance with minimum standards. Facilities receiving a conditional rating shall prepare, within ten (10) working days of the assignment of a rating, a plan for correction of all deficiencies and shall submit the plan to the cabinet for approval. Correction of all deficiencies, within the period approved by the cabinet, shall result in the termination of the conditional rating. Any deficiency that is classified as a type A or B violation shall result in the imposition of sanctions pursuant to KRS 216.555.

(4)[~~(5)~~] In making its determination as to the degree of compliance with the areas specified by subsection (1) of this section and the overall quality of care and services in a long-term care facility, the cabinet shall consider the results of interviews and surveys of a representative sampling of residents, families of residents, ombudsman committee members in the district in which the facility is located, guardians of residents, and staff of the long-term care facility.

(5)[~~(6)~~] If at any time during the rating year the cabinet finds a facility out of compliance with minimum standards under this section, the cabinet may alter a facility's rating pursuant to subsection ***(3)*** [~~(4)~~] of this section.

Section 5. KRS 216.560 is amended to read as follows:

(1) ***If*** [~~Where~~] a licensee has failed to correct a type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that ***the*** [~~such~~] deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) ***If*** [~~Where~~] a licensee has failed to correct a type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that ***the*** [~~such~~] deficiency continues beyond the date specified for correction. ***Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.***

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for and paid a fine for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in a trust and revolving fund, which is hereby created, and the balance of ***the*** [~~said~~] fund shall lapse at the end of the fiscal year to the general fund.

Section 6. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(3) "Applicant" means any person, health facility, or health service requesting a certificate of need or license.

(4) "Cabinet" means the Cabinet for Human Resources which functions as the state health planning and development agency.

(5) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(6) "Capital expenditure minimum" means six hundred thousand dollars ($600,000) for the twelve (12) month period beginning July 15, 1980, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by ***the*** [~~such~~] facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(7) "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, to substantially change the bed capacity or to substantially change a health service as covered by this chapter.

(8) "Commission" means the Commission for Health Economics Control in Kentucky.

(9) "Committee" means the Kentucky Health Care Cost Containment Advisory Committee.

(10) "Federal Act" means the National Health Planning Resources Development Act of 1974, P.L. 93-641, and subsequent amendments.

(11) "Formal review process" means the ninety (90) day certificate of need review conducted by the commission.

(12) "Health facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to health facilities and health services commonly referred to as hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, ***nursing facilities,*** nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance services, non-emergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and free standing hemodialysis

units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

(13) "Health maintenance organization" means a public or private organization, organized under KRS 304.38-010 to 304.38-200, which:

(a) Is a qualified health maintenance organization under the federal act; or

(b) 1. Provides or otherwise makes available to enrolled participants health services, including at least the following basic health services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage;

2. Is compensated, [(]except for co-payments,[)] for the provision of the basic health services listed in subparagraph 1. of this paragraph to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and

3. Provides physicians' services primarily;

a. Directly through physicians who are either employees or partners of ***the*** [~~such~~] organization; or

b. Through arrangements with individual physicians or one (1) or more groups of physicians, [(]organized on a group practice or individual practice basis[)].

(14) "Health service area" means a particular geographical area designated by the Governor as a health service planning area.

(15) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(16) "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the Governor.

(17) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum except that ***the*** [~~such~~] term does not include medical equipment acquired by or on behalf of a medical laboratory. For purposes of this paragraph, "medical equipment expenditure minimum" means four hundred thousand dollars ($400,000) for the twelve (12) month period beginning July 15, 1982 and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of ***the*** [~~such~~] equipment shall be included.

(18) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(19) "Operating cost expenditure minimum" means two hundred fifty thousand dollars ($250,000) for the twelve (12) month period beginning July 15, 1982, and as adjusted annually thereafter.

(20) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(21) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state or political subdivision or instrumentality, [(]including a municipal corporation,[)] of a state.

(22) "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of a local health planning agency, the cabinet or the commission;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for a local health planning agency, the cabinet or the commission regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for a local health planning agency, the cabinet or the commission;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the commission or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the commission.

(23) "Secretary" means the secretary of the Cabinet for Human Resources.

(24) "State health plan" means the document duly adopted by the State Health Planning Council and approved by the Governor.

(25) "State Health Planning Council" means the statewide health coordinating council or a state health planning agency established and designated by the Governor.

(26) "Substantial change in a health service" means the addition of a clinically related service not previously provided in the health facility which entails an annual operating cost which exceeds the operating cost expenditure minimum, or the addition of a health service for which there is a component of the state health plan, or the addition of a health service subject to licensure under this chapter, or the reduction or termination of a health service which had previously been provided in the health facility.

(27) "Substantial change in bed capacity" means the addition, reduction, relocation or redistribution of beds by licensure classification within a health facility.

(28) "To acquire" means to obtain from another by purchase, lease or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition ***shall be*** [~~is~~] deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, leased or acquired by comparable arrangement by one (1) person from another person.

(29) To "batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities or equipment affecting the same health service area.

(30) "To establish" means to construct, develop, or initiate a health facility.

(31) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in such contract have been met. An option to purchase or lease which is not binding, shall not be considered an enforceable contract.

(32) "To offer" means, when used in connection with health services, to hold a health facility or health maintenance organization out as capable of providing, or as having the means of providing, specified health services.

Section 7. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes, state veterans' nursing homes or non-conforming ambulance services as defined by administrative regulation.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists and other practitioners of the healing arts, provided that no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, ***if the*** [~~provided that such~~] facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; ***and***

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time[~~; and~~

~~(g) Personal care homes, as defined in KRS 216.750(2), located in any county containing over seven hundred fifty (750) square miles. If the local public health officer makes the determination that any personal care home with under sixteen (16) beds in such county, maintains adequate safety and health standards the Cabinet for Human Resources shall issue a license to operate the personal care home~~].

(3) An existing facility licensed as skilled nursing, intermediate care or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care or nursing home to the nursing facility licensure category.

HB 341, AN ACT relating to the pronouncement of death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

When a patient suffering from a terminal illness, whose death is anticipated and who is receiving the services of a hospice program licensed by the state of Kentucky under KRS Chapter 216B, dies at home or in a hospice inpatient program or unit, a registered nurse, licensed by the Kentucky Board of Nursing and employed by the attending hospice, and who treated the patient, may make the actual determination and pronouncement of death. The nurse shall release the body to the funeral director after having signed on the designated line the provisional report of death as furnished by the state registrar of Vital Statistics.

Section 2. KRS 213.080 is amended to read as follows:

(1) The certificate of death shall be prescribed and furnished by the Cabinet for Human Resources and shall be designed with due consideration for national uniformity. It shall be written legibly in unfading ink or typewritten. The personal and statistical particulars shall be authenticated by the signature of the informant who may be any competent person acquainted with the facts. The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

(2) The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, within five (5) working days of receipt of the certificate of death from the responsible undertaker or person acting as undertaker or the coroner or, if an autopsy is required, within thirty (30) days of the death. The physician, if any, last in attendance on the deceased, shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred. He shall further state the cause of death, showing the course of disease or sequence of causes resulting in death, giving the primary cause and any contributory causes, and the duration of each. Indefinite and unsatisfactory terms, indicating only symptoms of disease or conditions resulting from disease, ***shall*** [~~will~~] not be sufficient for issuing a burial or removal permit. Any certificate not containing the terms defined by the Cabinet for Human Resources shall be returned to the physician for correction and definition. ***If*** [~~Where~~] death may be the result of either disease or violence, the causes shall be carefully defined, and if the result of violence, its nature shall be stated, and whether it appears to have been accidental, suicidal or homicidal. In case of deaths in hospitals, institutions or away from home, the physician shall furnish the information required in this section and shall state where, in his opinion, the disease was contracted.

(3) The physician, dentist, chiropractor, or coroner who certifies to the cause of death***, or a licensed registered nurse who is employed by a licensed hospice program and who signs a provisional report of death under the provisions of Section 1 of this Act,*** shall return the ***provisional report of death or*** certificate to the funeral director, or person acting as such, who, in turn, shall file the ***document*** [~~certificate~~] directly with the office of vital statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

The Committee Substitute to **HB 341** is as follows:

HB 341, AN ACT relating to the pronouncement of death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

When a patient suffering from a terminal illness, whose death is anticipated and who is receiving the services of a hospice program licensed by the state of Kentucky under KRS Chapter 216B, dies at home or in a hospice inpatient program or unit, a registered nurse, licensed by the Kentucky Board of Nursing and employed by the attending hospice, and who treated the patient, may make the actual determination and pronouncement of death. The nurse shall release the body to the funeral director after having signed on the designated line the provisional report of death as furnished by the state registrar of Vital Statistics.

SB 88, AN ACT relating to medical care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Health Care Surrogate Act of Kentucky."

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Adult" means a person eighteen (18) years of age or older and who is of sound mind.

(2) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(3) "Decisional capacity" means the ability to make and communicate a health care decision.

(4) "Designation" means a document in writing executed by the grantor in accordance with the requirements of Section 7 of this Act or in a durable power of attorney as provided in KRS 386.093.

(5) "Grantor" means an adult who has executed a designation naming one (1) or more health care surrogates.

(6) "Health care decision" means consenting to, or withdrawing consent for any medical procedure, treatment or intervention.

(7) "Health care facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care, and licensed pursuant to KRS Chapter 216B.

(8) "Physician" means a person licensed to practice medicine in the Commonwealth of Kentucky.

(9) "Surrogate" means an adult who has been designated to make health care decisions in accordance with this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A grantor with decisional capacity may designate one (1) or more adults as a surrogate or successor surrogate to make any health care decision on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all then acting surrogates unless the designation provides otherwise.

(2) A surrogate may resign at any time by giving written notice to the grantor, to the immediate successor surrogate, if any, to the attending physician and to any health care facility which is then waiting for the surrogate to make a health care decision.

(3) An employe, owner, director or officer of a health care facility where the grantor is a resident or patient may not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The designation shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths, but a person who is then disqualified to be designated or act as a surrogate may not be a witness or the notary.

(2) A designation may be made in substantially the same form as provided in Section 7 of this Act or in a durable power of attorney, executed before or after the effective date of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A designation may be revoked in whole or in part or the surrogate's powers reduced or limited at any time by the grantor, if the grantor has decisional capacity. A new designation revokes any prior designation unless such a revocation, in whole or in part, is specifically negated. Revocation or limitation may be oral or written, or by destruction of the document of designation by or at the direction of the grantor. In the event that revocation occurs while the grantor is confined to a health care facility, such revocation shall be acknowledged in writing and recorded in the grantor's medical records.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Except as specifically limited in the designation or in this Act, the surrogate may make any health care decisions for the grantor which the grantor could make individually if he or she had decisional capacity, provided all such decisions shall be made in accordance with accepted medical practice. Whenever making any health care decision for the grantor, the surrogate shall consider the recommendation of the attending physician, the decision the grantor would have made if the grantor then had decisional capacity, if known, and the decision that would be in the best interest of the grantor.

(2) The surrogate may not make a health care decision in any situation in which the grantor's attending physician has determined in good faith that the grantor has decisional capacity. The attending physician shall proceed as if there were no designation if the surrogate is unavailable or refuses to make a health care decision.

(3) Notwithstanding the designation of a health care surrogate, nutrition and hydration shall always be provided to a person with the following exceptions: artificial nutrition and hydration may be withheld or withdrawn in the following circumstances:

(a) When inevitable death is imminent, which for the purposes of this provision shall mean when death is expected, by reasonable medical judgment, within a few days; or

(b) When the provision of artificial nutrition cannot be physically assimilated by the person; or

(c) When the burden of the provision of artificial nutrition and hydration itself shall outweigh its benefit, provided that the determination of burden shall refer to the provision itself and not to the quality of the continued life of the person.

Even in the exceptions listed in paragraphs (a), (b), and (c) of this subsection, artificial nutrition and hydration shall not be withheld or withdrawn if it is needed for comfort or the relief of pain.

(4) Notwithstanding the designation of a health care surrogate, life sustaining treatment and artificial nutrition and hydration shall be provided to a pregnant woman unless, to a reasonable degree of medical certainty, as certified on the woman's medical chart by the attending physician and one (1) other physician who has examined the woman, such procedures will not maintain the woman in such a way as to permit the continuing development and live birth of the unborn child or will be physically harmful to the woman or prolong severe pain which cannot be alleviated by medication.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The designation may be in substantially the following form. In addition, the designation may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by this or any other Act.

DESIGNATION OF HEALTH CARE SURROGATE

I designate ____________________ as my health care surrogate(s) to make any health care decisions for me when I no longer have decisional capacity. If ____________________ refuses or is not able to act for me, I designate ____________________ as my health care surrogate(s).

Any prior designation is revoked.

Signed this _____ day of __________, 19__

____________________________ *Signature and address of the grantor.*

In our joint presence, the grantor, who is of sound mind and eighteen years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

____________________________ *Signature and address of witness.*

____________________________ *Signature and address of witness.*

OR

STATE OF KENTUCKY)

_______________ ***County)***

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this _____ day of __________, 19__

_______________________ ***Signature of Notary Public or other officer.***

Date commission expires: _______________

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

When an attending physician or health care facility is given a copy of the designation it shall be made a part of the grantor's medical record. An attending physician or health care facility who is unwilling to comply with the provisions of a designation shall so advise the grantor and the surrogate promptly after receipt thereof.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No person need make independent investigation of a surrogate's authority unless in possession of information as to the surrogate's disqualification. No surrogate, physician or health care facility acting in good faith, shall be subject to civil liability for giving instructions as a surrogate, or carrying out, or refusing to carry out, the surrogate's instructions or acting in reliance on the grantor's designation.

(2) The making of a designation under this Act shall not affect in any manner the sale, procurement or issuance of any policy of life insurance, or shall it be considered to modify the terms of an existing policy of life insurance. Notwithstanding any term of the policy to the contrary, no policy of life insurance shall be legally impaired or invalidated in any manner by a health care decision made by a surrogate or by the withholding or withdrawal from an insured grantor any medical procedure or intervention which would serve only to prolong artificially the dying process.

(3) No person, corporation or governmental agency shall require or induce any person to execute a designation of a health care surrogate as a condition for a contract or for the provision of any service, medical treatment or benefit whatsoever.

(4) Nothing in this Act shall be construed to impose any liability on a surrogate for any expenses of the grantor for which the surrogate would not otherwise have been liable.

The Committee Amendment No. 1 to **SB 88** is as follows:

Amend printed copy of **SB 88** on page 8, line 2, by inserting after the words "***subject to***" the words "***criminal or***";

And on page 8, line 26, by adding a new subsection (5) to read as follows:

"***(5) This Act shall not affect the common law or statutory right of an adult to make decisions regarding the use of life-prolonging treatment, so long as the adult is able to do so, or impair or supersede any common law or statutory right that an adult has to effect the withholding or withdrawing of medical care.***".

The Committee on Health and Welfare reported **HB 99**, **HB 164** with Committee Substitute and **HB 432** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 99, AN ACT relating to child day-care and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.896 is amended to read as follows:

(1) No person, association or organization shall conduct, operate, maintain or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties. ***The secretary may grant***

a waiver from the standards of care and service adopted related to the staff to child ratio and group size required for the licensure of a day-care center to a Montessori school providing early childhood education if the Montessori school is accredited from a recognized Montessori association which has teacher training centers under its auspices for the purpose of educating teachers in applied, recognizable methodology and which follows a criteria for evaluation, accreditation and uniform practice that include group size, staff to child ratio, environment, materials, class activities and philosophy.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50.00) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25.00). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the state treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child care workshops. ***The*** [~~Such~~] funds collected are hereby appropriated for the use of the cabinet. The balance of ***the*** [~~said~~] special fund shall lapse to the general fund at the end of each biennium.

(7) Any advertisement for child care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day-care centers and homes by the Cabinet for Human Resources shall be unannounced.

Section 2. Whereas, the standards of care and service required for child day-care licensing are not adaptable to early childhood education philosophies and many accredited day-care centers with these philosophies are penalized for noncompliance with the licensing requirements, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 164, AN ACT relating to family day-care homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Human Resources;

(b) "Department" means the Department for Social Services; and

(c) "Family day-care home" means a private home which provides full or part-time care day or night for six (6) or less children who are not the children, grandchildren or children of legal custody of the provider.

(2) (a) The cabinet shall establish a family day-care home registration program which shall be administered by the department. A family day-care provider shall register his home if the provider is caring for four (4) to six (6) children. A family day-care provider caring for three (3) or less children may register his home at the discretion of the provider. Applicants for registration shall meet the following minimum requirements:

1. Submit two (2) written character references;

2. Demonstrate completion of six (6) hours of first aid, nutrition, and child development training;

3. Submit to a criminal record check as provided by KRS 17.165;

4. Provide smoke detectors, a telephone or access to a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided; and

5. A copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for registration.

(b) Initial applications for registration shall be made to the department and shall be accompanied with a twenty dollar ($20) registration fee. The department shall issue a certificate of registration upon inspecting the family day-care home and determining the provider's compliance with the provisions of this section. A certificate of registration issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of fifteen dollars ($15).

(c) A registered family day-care provider shall display the certificate of registration in a prominent place within the residence in which care is provided. The cabinet shall provide the registered family day-care provider with pamphlets explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) The cabinet shall promulgate administrative regulations which establish standards for the issuance, monitoring, renewal, denial, revocation, and suspension of a certificate of registration of a family day-care home. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family day-care provider seeking registration of his home:

1. Registration requirements and procedures;

2. Available child-care training; and

3. Child-care food sponsoring organizations.

Section 2. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Secretary" means secretary for human resources;

(3) "Day-care center" means any child-care facility which provides full or part-time care, day or night, to at least ***seven (7)*** [~~four (4)~~] children not related to the operator of the child-care facility by blood, marriage or adoption. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted.

The Committee Substitute to **HB 164** is as follows:

HB 164, AN ACT relating to family day-care homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Human Resources; and

(b) "Family day-care provider" means a person who provides full or part-time care day or night in a private residence for six (6) or less children who are not the children, grandchildren or children in legal custody of the provider and who is not required to be licensed pursuant to KRS 199.896.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish and administer a registration program for family day-care providers.

(2) A family day-care provider caring for four (4) to six (6) children shall register with the cabinet the residence in which care is provided. A family day-care provider caring for three (3) or less children may, at the discretion of the provider, register with the cabinet the residence in which care is provided.

(3) The cabinet shall issue a provisional certification of registration to a family day-care provider upon the receipt of the following information:

(a) A completed application for registration;

(b) Two (2) written character references;

(c) A criminal record check of the applicant and each adult eighteen (18) years of age and older residing in the household;

(d) A copy of the results of a tuberculosis skin test for the applicant or other members of the applicant's

household who are over the age of eighteen (18) administered within thirty (30) days of the date of application for registration; and

(e) A physician's written statement on the applicant's physical and mental capability of caring for the developmental and physical needs of a child.

(4) The cabinet shall inspect the residence in which the family day-care provider is caring for children within three (3) months of the issuance of the provisional certificate of registration. Thereafter, the cabinet shall inspect the residence in which the family day-care provider is caring for children every two (2) years. If the cabinet receives a complaint about a registered family day-care home, the cabinet shall inspect the home.

(5) The cabinet shall issue a certification of registration to a family day-care provider, if the following minimum requirements are met:

(a) Completion of six (6) hours of child-care training which shall consist of two (2) hours each of training in first aid, nutrition, and child development;

(b) Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;

(c) Adhere to the provider to child ratio as designated by the cabinet; and

(d) Permit the parent or guardian of a child in the care of the family day-care provider access to the residence in which care is provided during the hours of operation.

(6) Applications for registration of a family day-care provider required to be registered shall be accompanied by a twenty dollar ($20) registration fee. A certificate of registration issued pursuant to this section shall not be transferable and shall be renewed every two (2) years if the family day-care provider demonstrates completion of six (6) hours of annual child care training. The registration renewal fee of family day-care providers required to be registered shall be fifteen dollars ($15).

(7) A registered family day-care provider shall display the certificate of registration in a prominent place within the residence in which care is provided. The cabinet shall provide a registered family day-care provider with pamphlets explaining the registration requirements for a family day-care provider and instructions on the method of reporting violations of the registration requirements which the provider shall distribute to parents. The cabinet shall also provide an "easy-to-read" guide containing the following information to persons seeking to register as a family day-care provider:

1. Requirements and procedures for registration;

2. Available child-care training; and

3. Child-care food sponsoring organizations.

(8) The cabinet shall promulgate administrative regulations which establish standards for the issuance, monitoring, renewal, denial, revocation, and suspension of a certificate of registration of a family day-care home.

Section 3. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Secretary" means secretary for human resources;

(3) "Day-care center" means any child-care facility which provides full or part-time care, day or night, to at least ***seven (7)*** [~~four (4)~~] children ***who are*** not ***the children, grandchildren or children in legal custody of the provider*** [~~related to the operator of the child-care facility by blood, marriage or adoption~~]. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted.

HB 432, AN ACT relating to mobile homes and recreational vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.570 is amended to read as follows:

(1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in mobile homes and for recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. ***These*** [~~Said~~] standards and requirements shall be those adopted by the Mobile Home Certification and Licensure Board or the Recreational Vehicle Certification and Licensure Board.

(2) The office shall enforce such standards and requirements for the body and frame design*,* [~~and~~] construction ***and installation*** of mobile homes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. ***These*** [~~Said~~] standards and requirements shall be those adopted by the Mobile Home Certification and Licensure Board. ***If*** [~~In the event that~~] any part of Acts 1976, ch. 136 conflicts with Title 6 of the Federal Housing and Community Development Act of 1974, the federal act shall take precedence.

(3) ***New*** mobile homes shall be installed in accordance with the manufacturers instructions or ***NFPA*** [~~part 4 of NFTA~~] 501 (A).

Representative Priddy moved that **HB 613** be withdrawn. Agreed.

Representative Casebier moved the adoption of the following **HR 154**:

HR 154, A RESOLUTION in honor of the Valley Women's Club.

WHEREAS, the Valley Women's Club has long been involved in cultural and civic activities; and

WHEREAS, the community is extremely fortunate to have such an outstanding organization; and

WHEREAS, the Valley Women's Club has made many noteworthy contributions to the community it serves, including providing scholarships for high school and college students; and

WHEREAS, this outstanding club has been active in the "Adopt a Highway Litter Program"; and

WHEREAS, it has contributed to the Farnsley Moreman House Restoration, Special Olympics, and Valley High School; and

WHEREAS, this club has been engaged in vision screening of children in the area it serves; and

WHEREAS, the Valley Women's Club is celebrating its thirty-fourth anniversary of service to the community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body hails the 64 members of the Valley Women's Club for their dedication and countless hours of service to their community and the Commonwealth of Kentucky.

Section 2. That on this day the Clerk of the House present one copy each of this resolution to Representative Lindy Casebier and Representative Bill Lile.

HR 154 was adopted by voice vote.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 88**, by Representative Donnermeyer:

Amend printed copy of **SB 88** on page 2, between lines 13 and 14, by adding the following new subsections:

"***(10) "Life-sustaining treatment" means any medical procedure, treatment, or intervention that would, in the reasonable medical judgment of a person's attending physician, sustain the life of the person, other than the provision of nutrition or hydration.***

(11) "Terminal condition" means an illness or injury that, in the reasonable judgment of the person's attending physician and one (1) other physician who has examined the person, is incurable and irreversible, will result in the death of the person in hours or days rather than weeks, months or years, and where the application of life-sustaining treatment would serve only to artificially prolong the dying process.";

And on page 5, line 3, by deleting the words "***with the following exceptions:*** " and inserting in lieu thereof the words "***provided, however, that***";

And on page 5, by deleting lines 6 through 9 in their entirety, and inserting in lieu thereof the following new paragraph:

"***(a) When the person has a terminal condition; or***";

And on page 6, between lines 5 and 6, by adding a new subsection to read as follows:

"***(5) A health care surrogate shall not have the authority to order the withholding or withdrawing from the grantor of: (a) comfort care; or (b) life-sustaining treatment, unless the grantor has a terminal condition.***".

Floor Amendment No. 7 to **HB 38**, by Representative Long:

Amend printed copy of **HB 38** on page 2, lines 22 and 23, by placing brackets around and striking through the words "not married to the actor".

Floor Amendment No. 8 to **HB 38**, by Representative Long:

Amend printed copy of **HB 38** on page 3, line 4, by adding the following new section:

SECTION 2. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

"***A person who engages in sexual intercourse or deviate sexual intercourse with another person to whom the person is married, or subjects another person to whom the person is married to sexual contact, does not commit an offense under this chapter regardless of the person's age solely because the other person is less than sixteen (16) years old or mentally retarded.***".

Floor Amendment No. 9 to **HB 38**, by Representative Deskins:

Amend printed copy of **HB 38** on page 3, below line 3, to add the following:

"Section 2. KRS 508.030 is amended to read as follows:

(1) A person is guilty of assault in the fourth degree when:

(a) He intentionally or wantonly causes physical injury to another person; or

(b) With recklessness he causes physical injury to another person by means of a deadly weapon or a dangerous instrument[~~.~~]***; or***

(c) Being a principal, teacher, or other elementary secondary, or preschool employee, he paddles, or strikes a student at the school for disciplinary purposes, or authorizes or participates in the same. This subsection shall not apply to the lawful use of force by a person for self-defense."

(2) Assault in the fourth degree is a Class A misdemeanor.

Floor Title Amendment to **HB 38**, by Representative Deskins:

Amend printed copy of **HB 38** on page 1, to delete the title appearing therein and to insert in lieu thereof "AN ACT relating to assault."

Floor Amendment No. 3 to **SB 122**, by Representative Mason:

Amend printed copy of **SB 122** on page 2 after line 26 by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Every utility which serves a volunteer fire department or other entity eligible for aid under KRS 17.250 shall supply such service at the lowest rate available under its tariffs to customers with comparable consumption amounts, including residential or farm rates."

Floor Amendment No. 2 to **HB 399**, by Representative R. Smith:

Amend printed copy of **HB 399** on page 4, line 2, after the word "***concrete,***" by deleting the words "***other building***".

On page 4, line 3, before the word "***solid***" by deleting the word "***materials,***".

On page 4, line 4, after the word "***products***" by inserting the words "***may exceed the axle weight provisions by a weight tolerance of ten percent (10%)***" and by placing an opening bracket in front of the word "shall" and by placing a closing bracket after the word "provisions" and striking through the same.

Floor Amendment No. 1 to **SB 223**, by Representative Walker:

Amend printed copy of **SB 223** on page 2, line 16, after "*(5)*" by inserting

"If a party nominee won the nomination through a primary election in which two (2) or more candidates participated for the same office and then withdrew for any reason, the party may replace him by existing rules.

***(6)*".**

The Clerk announced the following meetings:

Representative Priddy announced a luncheon from 11:30 to 1:30 in Room 318 February 28, 1990.

The Committee on Appropriations and Revenue, 9:00 a.m., February 28, 1990.

The Committee on Counties and Special Districts, 8:30 a.m., February 28, 1990.

The Committee on Labor and Industry, 8:00 a.m., February 28, 1990.

The Committee on Education Reform, 4:00 p.m., Room 116.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 28, 1990.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blevins, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Reinhardt, Richards, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 5—Bronger, Curtsinger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 28, 1990

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Glenn Emory, Gateway Christian Church, Mt. Sterling.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representative Noe.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 27, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 144**, **SB 211**, **SB 218**, **SB 246**, **SB 256**, **SB 274**, **SB 289**, **SCR 74**, **SCR 75** and **HB 236**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 145** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:07 p.m.)

HB 145 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 778, by Representative Ward: AN ACT relating to abandoned urban property.

HB 779, by Representatives Lyne, Gedling and Crupper: AN ACT relating to referendum of small grain producers.

HB 780, by Representative Pritchett: AN ACT relating to motor vehicles.

HB 781, by Representative Pritchett: AN ACT relating to utilization review.

HB 782, by Representative Hancock: AN ACT relating to state employees.

HB 783, by Representative LeMaster: AN ACT relating to motor vehicle insurance.

HB 784, by Representative R. Smith: AN ACT relating to revenue and taxation.

HB 785, by Representative Geveden: AN ACT relating to liquefied petroleum gas.

HB 786, by Representative Geveden: AN Aating to tax equivalent payments by the Department of Fish and Wildlife Resources, and making an appropriation.

HB 787, by Representatives Butler, Gray, McElroy, Yates and L. Clark: AN ACT relating to statutory liens.

HB 788, by Representative Curtsinger: AN ACT relating to operations of the Corrections Cabinet and the Parole Board with regard to prisoners.

HB 789, by Representative Burch: AN ACT relating to railroads.

HB 790, by Representative Donnermeyer: AN ACT relating to Alzheimer's disease and making an appropriation therefor.

HB 791, by Representative Farrow: AN ACT relating to utilities in cities.

HB 792, by Representative Brown: AN ACT relating to waste management and making an appropriation therefor.

HB 793, by Representative Brown: AN ACT relating to public health and the environment.

HB 794, by Representative Reinhardt: AN ACT relating to driving under the influence.

HCR 158, by Representatives White, K. Harper, T. Jones, Donnermeyer and Bentley: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to conduct a study of issues relating to school choice.

HCR 159, by Representatives Geveden and Mack: A CONCURRENT RESOLUTION to create a Task Force to study the impact of alcohol and drug use during pregnancy.

HR 160, by Representative Donnermeyer: A RESOLUTION designating Law Enforcement Officer Day.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 240, HB 743, HB 771.**

Appropriations and Revenue: **HB 754, HB 770, HB 760.**

Banking and Insurance: **HB 745, HB 765, HB 774.**

Cities: **HB 755, HB 768, HB 776.**

Counties and Special Districts: **HB 767.**

Economic Development and Tourism: **HB 742, HB 750, HCR 156.**

Education: **HB 749, HB 773, HB 775, HB 777.**

Elections and Constitutional Amendments: **HB 764.**

Health and Welfare: **SB 30, SB 233, HB 757.**

Judiciary: **HB 756, HB 772.**

Labor and Industry: **SCR 72.**

Natural Resources and Environmental Protection: **HB 744, HB 748, HB 758, HCR 153, HCR 155.**

State Government: **HB 746, HB 752, HB 753, HB 759, HB 762, HB 763, HCR 152.**

Transportation: **HB 747, HB 751, HB 761, HB 766, HB 769.**

Report of Committees

The Committee on Rules reported **HB 100, HB 459, HB 561, HB 23, HB 260, HB 452, HB 198, HB 453** and **SB 223** have been posted for passage in Orders of the Day, March 1, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, March 1, 1990: **HB 503.**

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 205.**

Business Organizations and Professions: **HB 411.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Elections and Constitutional Amendments: **SB 143, SB 145, SB 146, SB 147.**

Agriculture and Small Business: **HB 771.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 378** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 522** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 522, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.060 is amended to read as follows:

(1) Every corporation incorporated under the laws of this state, having a capital stock divided into shares, shall pay into the State Treasury, at the time of incorporation, an organization tax based upon the number of shares authorized by the articles of incorporation, at the following rates: one cent ($.01) for each share authorized up to and including twenty thousand (20,000) shares, one-half cent ($.005) for each [~~such~~] share in excess of twenty thousand (20,000) shares and up to and including two hundred thousand (200,000) shares and one-fifth cent ($.002) for each [~~such~~] share in excess of two hundred thousand (200,000) shares.

(2) Upon the filing of an amendment to articles of incorporation changing the authorized number of shares, the tax that would be due upon the number of shares authorized by the articles of incorporation as so amended, at the rates set forth in subsection (1) of this section, shall be ***paid*** [~~computed~~], and if the tax as so computed exceeds the amount of tax computed on the basis of the number of shares authorized by the articles prior to ***the*** [~~such~~] amendment, ***the*** [~~such~~] excess tax shall be paid at the time the amendment is filed.

(3)) Every corporation that has not, prior to July 1, 1946, become liable for the payment of a Kentucky organization tax upon any or all of its capital stock, and that by amendment of its articles of incorporation changes its name, increases its powers, enlarges its scope, or prolongs its corporate life, shall, upon the filing of the amendment, pay the tax as provided in subsection (1) of this section upon its entire capital stock, or so much thereof as has not theretofore borne the tax.

(4) A consolidated or merged corporation formed under the laws of this state shall not be required to pay any organization tax on the number of shares of capital stock on which the organization tax has been paid by the constituent corporations prior to the consolidation or merger, but the organization tax shall be paid on any increase of the number of shares of capital stock of the consolidated corporation over the aggregate number of shares of the constituent corporations prior to the consolidation or merger. When a foreign corporation consolidates or merges with one or more corporations of this state, the organization tax shall be paid on the number of shares of capital stock of the foreign corporation.

(5) No corporation subject to the tax imposed by this section shall have or exercise any corporate powers until the tax has been paid, and upon payment it shall file a statement thereof with the Secretary of State. No corporation required to pay a tax under any of the provisions of this section shall in any event pay a less sum therefor than ten dollars ($10.00).

Section 2. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the Revenue Cabinet all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. The clerk shall deposit motor vehicle usage tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, Revenue Cabinet account in a bank designated as a depository for state funds. ***The clerk may be required to then cause the funds to be transferred from the local depository bank to the State Treasury in whatever manner and at times prescribed by the secretary of he Revenue Cabinet or his designee.*** Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2 1/2%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit ***or, if required, transfer*** collections as required above shall subject the clerk to a penalty of two and one-half percent (2 1/2%) of the amount not deposited ***or, if required, not transferred*** for each day until the collections are deposited ***or transferred*** as required above. The penalty for failure to deposit ***or transfer money collected*** shall not be less than fifty dollars ($50.00) nor more than five hundred dollars ($500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause. The cabinet may in its discretion grant a county clerk a reasonable extension of time to file his report or make ***any transfer of*** deposits as required above. The extension however must be requested prior to the end of the seven-day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.729.

Section 3. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property ***provided that the vehicles were previously registered in Kentucky***;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(4). The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle; and

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

The Committee on Counties and Special Districts reported **HB 524** with Committee Substitute attached thereto, **SB 166**, **SB 188** and **SCR 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 524, AN ACT relating to public notice by local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, ***or sheriff or county clerk*** may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than seven thousand five hundred dollars ($7,500) without first making newspaper advertisement for bids. [~~Provided, however, that~~] This requirement shall not apply in an emergency if the chief executive officer of ***the*** [~~such~~] city, county or district has duly certified that an emergency exists, and has filed a copy of ***the*** [~~such~~] certificate with the chief financial officer of ***the*** [~~such~~] city, county, or district***, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530***.

Section 2. KRS 68.080 is amended to read as follows:

The fiscal court***, the sheriff and the county clerk*** of each county that contains a city of the first class shall cause to be published pursuant to KRS Chapter 424, at the end of each fiscal year, a financial statement of the county*, **the office of the sheriff and the office of the county clerk, respectively,*** which shall include a list of the claims and amounts thereof allowed against the county ***or office*** during the preceding fiscal year, and to whom allowed, with [~~such~~] other information [~~as~~] the fiscal court*, **sheriff or county clerk*** deems proper to have published.

The Committee Substitute to **HB 524** is as follows:

HB 524, AN ACT relating to public notice by local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, ***or sheriff or county clerk*** may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than seven thousand five hundred dollars ($7,500) without first making newspaper advertisement for bids. [~~Provided, however, that~~] This requirement shall not apply in an emergency if the chief executive officer of ***the*** [~~such~~] city, county or district has duly certified that an emergency exists, and has filed a copy of ***the*** [~~such~~] certificate with the chief financial officer of ***the*** [~~such~~] city, county, or district*, **or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530.***

Section 2. KRS 68.080 is amended to read as follows:

(1) The fiscal court of each county that contains a city of the first class shall cause to be published pursuant to KRS Chapter 424, at the end of each fiscal year, a financial statement of the county which shall include a list of the claims and amounts thereof allowed against the county during the preceding fiscal year, and to whom allowed, with [~~such~~] other information [~~as~~] the fiscal court deems proper to have published.

(2) The sheriff and the county clerk of each county that contains a city of the first class shall prepare at the end of each fiscal year a financial statement of the office of the sheriff and the office of the county clerk, respectively, which shall include a list of the claims and amounts thereof allowed against the office during the preceding fiscal year, and to whom allowed, with other information the sheriff or county clerk deems proper to include. The financial statement shall be available to the public for review upon request.

SB 166, AN ACT relating to health departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

As used in this Act the following definitions shall apply:

(1) "Board" means independent district board of health as created in this Act.

(2) "Cabinet" means Cabinet for Human Resources.

(3) "County board of health" means a local board of health as defined by KRS 212.640 or 212.020.

(4) "Department" means independent district department of health created in this Act.

(5) "Director" means the district director of health.

(6) "District board of health" means the district board of health as established pursuant to KRS 212.810 to 212.930.

(7) "District department of health" means the district department of health as established pursuant to KRS 212.810 to 212.930.

(8) "Independent district board of health" means the independent district board of health as created in this Act.

(9) "Judge/executive" means the county judge/executive of any county fiscal court as defined in KRS 67.700 to 67.710.

(10) "Metropolitan statistical area" (MSA) means metropolitan statistical area as defined by the United States Bureau of the Census, United States Department of Commerce.

SECTION 2. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) An independent district board of health and an independent district department of health may be established in areas where an existing district board of health and district department of health includes counties which are a part of an interstate MSA where the Kentucky population of the interstate MSA exceeds two hundred fifty thousand (250,000) people on July 1, 1989, as estimated by annual population estimates by the United States Bureau of the Census.

(2) The county fiscal courts of any county within an area may by resolution of the respective fiscal courts, passed by a majority vote of the members present, unite the counties to create, establish, maintain and operate an independent district department of health as defined in this Act. Each fiscal court shall provide for its proportion of the cost for the creation, establishment, maintenance and operation of the department by resolution.

SECTION 3. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) Independent district departments of health shall be governed by an independent district board of health which shall be a body politic and corporate. The board shall have jurisdiction throughout the counties, including within all municipalities of the counties with respect to and in accordance with the provisions of this Act. The board may, in its corporate name, sue and be sued, contract and be contracted with, acquire real, personal and mixed property by deed, purchase, gift, devise, lease or otherwise, and mortgage, pledge, sell, convey or otherwise dispose of same. The board may make appropriate rules and regulations and do all things reasonable or necessary in order to carry out the work and to properly perform the duties intended as required under the provisions of this Act. The title to all property acquired for purposes of this Act whether real, personal and mixed, or whether acquired by deed, gift, purchase, devise, or otherwise, shall vest in the board and shall be exempt from taxation. When and after the board and department established under the provisions of this Act are organized and except as otherwise provided herein, the board and department shall succeed to and be vested with all of the functions, obligations, powers, duties, immunities and privileges now being exercised by the district board of health and district department of health, and thereupon the district board of health and district department of health shall cease to exist and all laws and amendments to any such laws, relating to and governing the district board of health and district department of health, in conflict with the provisions of this Act shall, to the extent of such conflict, stand and be repealed.

(2) When an independent district board of health is created pursuant to this Act all powers and duties of the previous district board of health and local boards of health, except as otherwise provided in this Act, are transferred to the newly created independent district board of health and independent district department of health. Independent district boards of health and independent district departments of health established under this Act shall succeed to and be vested with all the functions, powers, obligations, duties, immunities, and privileges exercised by a district health department and local board of health.

SECTION 4. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) The independent district board of health shall be comprised of the following members: the judge/executive or his designee as an ex-officio member from each participating county, the chairman from each participating local board of health as an ex-officio member, additional members appointed by the judge/executive with the approval of the local board of health including at least to the extent practicable twenty-five percent (25%) who shall be licensed physicians, ten percent (10%) who shall be licensed dentists, twenty-five percent (25%) who shall be licensed registered nurses, ten percent (10%) who shall be licensed veterinarians, and thirty percent (30%) who shall be consumer members. Each member shall serve a term of two (2) years with a maximum of three (3) consecutive terms, except ex-officio members who shall continue to serve.

(2) The judge/executive, or his designee and the chairman of the local board of health shall serve as ex-officio members of the district board of health. Additional appointments shall be based on population. Each county shall have an appointment of one (1) member for fifteen thousand (15,000) population or portion thereof. Additional members shall be at a rate of one (1) member per whole increment of fifteen thousand (15,000) population. The mayor of each city of the second class, or his designee, shall serve as an ex-officio member of the district board of health and shall count against the population based appointees.

(3) The original appointments by the judge/executive to the board shall be made within thirty (30) days of the effective date of this Act. One-half (1/2), or the nearest portion thereof, shall be appointed for a term to expire June 30, 1991 and one-half (1/2), or the nearest portion thereof, shall be appointed for a term to expire June 30, 1992. All subsequent appointments and successors shall be appointed in accordance with the provisions of this Act.

(4) The judge/executive shall fill all vacancies occurring by reason of death, resignation, disqualification and do so for the unexpired term.

SECTION 5. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) The majority of all members of an independent district board of health shall constitute a quorum. The board shall elect a chairman and vice chairman and other officers as deemed necessary. The chairman and vice chairman shall serve for one (1) year terms. The independent district board of health may elect an executive committee for the conduct of such business and the discharge of such duties as the board may delegate.

(2) Members of an independent district board of health shall serve without pay but may be reimbursed for expenses incurred in connection with such service.

(3) The board may create committees it deems necessary, adopt any rules and regulations for the conduct of business and for carrying out the provisions of this Act. The board shall keep a record of all resolutions, transactions, findings and determinations, which shall be public records. The board shall hold at least four (4) regular meetings in each year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) The board shall appoint a district director of health for the department as set forth in this Act.

(2) The district director of health may be a physician, qualified by training in public health, preventive medicine and public administration and licensed or eligible for practice as a medical practitioner in the Commonwealth of Kentucky, or may be a non-physician with a masters degree in public health or related field and at least five (5) years experience in a management capacity with a health department. The district director of health shall receive an annual salary as prescribed by the board, subject to the provisions of the department's merit system, and shall serve at the pleasure of the board. If the district director of health is removed by the board he shall be notified in writing, and within fourteen (14) days may make a written request for a hearing. If no request is made the removal shall become effective upon the expiration of fourteen (14) days. If a request for hearing is made the hearing shall be held at the office of the department within fourteen (14) calendar days after the request is received by the board. The district director of health shall not be removed until after a hearing has been held, and a decision rendered by the board. The board decision shall be final.

(3) The district director of health shall serve as secretary to the board of health, the chief administrative officer of the department, and may employ and fix compensation of, by contract or otherwise, all employees necessary for the maintenance and operation of the department in accordance with the merit system as established by the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) The board shall establish a compensation plan for all employees of the department.

(2) The employees of the department shall be employed and governed in accordance with the board's merit system. The board shall provide for the recruitment, examination, appointment, promotion, transfer, layoff, removal, discipline, compensation, and welfare of the department's employees by establishing a system of personnel administration based on merit principles. The systems shall include a personnel board of at least five (5) members appointed by the board for two (2) year terms. The personnel board shall establish rules and regulations governing the administration of the personnel system. The district director of health shall function as the appointing authority for personnel matters of the board. The board shall have one (1) year from the implementation of this Act to provide for a merit system.

(3) Notwithstanding the provisions of KRS 61.510 to 61.692 and 78.510 to 78.852 all regular full-time, present and future public health employees of an independent district department of health shall be included within the provisions of the Kentucky Retirement System.

(4) When a personnel board is organized as provided in this Act, all health department employees shall be transferred to and continued in the service of the department created under this Act. Any health department employee who is in classified service at the time of the establishment of a personnel system shall be continued in the classified service of the newly created department with the same status held in the district department of health.

SECTION 8. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) The cost of creating, establishing and maintaining the independent district health department shall be paid by the participating local boards of health in proportion to the taxable property of each county as determined by respective county assessments and in accordance with revenues generated pursuant to authority under KRS 212.720 and 212.725.

(2) The independent district health department shall be entitled to the same state aid as provided for county and district health departments under KRS 212.120, upon notification of the establishment of the department being given to the cabinet, as provided in KRS 212.120. Funding from the cabinet shall be continued at least at the same level and proportion for similar public health activities the district after enactment of this Act as before. Modification of annual allotments shall not be made unless in accordance with causes enumerated under the provisions of KRS 212.120.

(3) An independent district board of health may establish schedules of fees and charges for any services rendered by the department and may recover the fees and charges for services from any person who receives services.

(4) A board may make reasonable classifications in fee schedules based upon the financial ability of the person to pay and may vary charges in accordance with income classifications but no fee charged shall exceed the approximate cost of rendering such service.

(5) The district director of health shall prepare a budget for the board's approval and set forth the total funds available from all sources for actual and estimated expenditure during the fiscal year. Fiscal years shall begin on July 1 of each year and shall end on June 30 of the following year.

(6) A board shall install and maintain a system of accounting and records and shall file an annual report and other documents required by the fiscal courts, to the cabinet and to the local boards of health within one hundred twenty (120) days of the close of the board's fiscal year.

SB 188, AN ACT relating to planning commissions in counties of 300,000.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.137 is amended to read as follows:

(1) Counties with a population of 300,000 or more inhabitants shall be a planning unit and shall have a planning commission which commission shall be composed of three (3) members, who are nonresident of the largest city of the county, appointed by the county judge/executive of such county, three (3) members who are residents of the largest city of the county appointed by the mayor of that city, and the mayor of the largest city ***or his designee***, the county judge/executive ***or his designee***, the director of works of the largest city in the county and the county road engineer.

(2) In counties containing a city of the first class, all legislation implementing or amending the plan or amended plan which affects cities of the first through fourth classes shall be enacted by such cities and all other legislation implementing the plan or amended plan shall be enacted by the fiscal court.

(3) In all other counties the establishment of a planning unit is optional, but any planning unit established in other counties shall comply with the remaining provisions of this chapter.

SCR 20, A CONCURRENT RESOLUTION directing a study of the impact of merging local government retirement systems with the County Employees Retirement System.

WHEREAS, in 1988 the General Assembly passed **HB 398**, which required local government pension systems to be merged with the County Employees Retirement System (CERS); and

WHEREAS, **HB 398** was conceived to benefit employees by ensuring their pension benefits, and to benefit local governments by requiring timely funding of pension benefit obligations; and

WHEREAS, all new local government employees were required to join CERS and employees at the time of the merger were given the option to join CERS, and most did join CERS; and

WHEREAS, the cost to a local government of joining CERS was related to the number of employees who transferred to CERS; and

WHEREAS, local government financial obligations to CERS as a result of **HB 398** ranged from insignificant to substantial, and funding periods were extended for up to thirty (30) years at the option of local governments; and

WHEREAS, it is the desire of the General Assembly to assess the effects of CERS membership on local government employees who transferred to CERS and to assess the current and long term financial impact on local governments which joined CERS as a result of **HB 398**;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Legislative Research Commission conduct a study of the impacts of 1988 **HB 398**, including consideration of:

(1) The number of employees who transferred to CERS and the effects of the transfers on dates of retirement;

(2) The financial condition of the local pension systems which remain to service retirees and employees who did not transfer to CERS;

(3) To what use any surplus funds remaining in local pension systems should be put;

(4) Whether any local government pension funds which accept new members still exist in Kentucky.

Section 2. The Legislative Research Commission is authorized to employ actuarial consultants to assist in this study, and those consultants shall have the qualifications for actuarial consultants required by KRS 6.350.

Section 3. The results of this study shall be submitted to the Legislative Research Commission no later than September 1, 1991.

Section 4. Staff services to be utilized in completing this study are estimated to cost twelve thousand, five hundred dollars ($12,500).

The Committee on Labor and Industry reported **HB 395** with Committee Amendment attached thereto, **HB 628**, **HB 687** and **SB 57** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 395, AN ACT relating to underground coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

All mines utilizing conveyor belts shall employ one (1) or more persons to examine the conveyor belts while in operation at the mine to determine that no coal or mine refuse is being transported on the conveyor belt in a manner which would pose a threat to the health and safety of the employees or to the safety of the mine.

The Committee Amendment No. 1 to **HB 395** is as follows:

Amend printed copy of **HB 395** on page 1, line 3, by adding the word "***have***" after "***shall***" and deleting the word "***employ***"

On line 5, by adding the word "***in***" after "***operation***" and deleting the word "***at***".

HB 628, AN ACT relating to tobacco products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of sixteen (16), or knowingly solicit any person under the age of sixteen (16) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment the following notice: "The Sale of Tobacco Products To Any Person Under Age Sixteen Is Prohibited By Law."

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation.

Section 2. KRS 344.040 is amended to read as follows:

It is an unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to his compensation, terms, conditions, or privileges of employment, because of ***the*** [~~such~~] individual's race, color, religion, national origin, sex, [~~or~~] age between forty (40) and seventy (70), ***or***

because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking; [~~or~~]

(2) To limit, segregate, or classify his employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employee, because of ***the*** [~~such~~] individual's race, color, religion, national origin, sex, or age between forty (40) and seventy (70)***, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking; or***

(3) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking.

HB 687, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than three dollars and ***eighty*** [~~thirty-five~~] cents ***($3.80)*** [~~($3.35)~~] an hour***, beginning July 15, 1990, and four dollars and twenty-five cents ($4.25) an hour, beginning July 15, 1991.***

(2) For any employee engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20.00) per month in tips from patrons or others, the employer may pay as a minimum fifty percent (50%) of the wage prescribed in [~~subsection (1) of~~] this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in ***this section*** [~~subsection (1)~~] was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

(3) (a) Any employer may, in lieu of the minimum wage prescribed in subsection (1) of this section, pay an employee, who has not attained the age of twenty (20) years, a wage of not less than three dollars and thirty-five cents ($3.35) an hour, beginning July 15, 1990, and not less than three dollars and sixty-one cents ($3.61) an hour, beginning July 15, 1991.

(b) No employee may be paid the wage authorized in paragraph (a) of this subsection by an employer if any other individual has been laid off by such employer from the position to be filled by the employee or from any substantially equivalent position; or, the employer has terminated the employment of any regular employee or otherwise reduced the number of employees with the intention of filling the vacancy so created by hiring an employee to be paid the wage authorized in paragraph (a) of this subsection. No employer may take any action to displace employees, including partial displacements such as reduction in hours, wages, or employment benefits, for purposes of hiring individuals at the wage authorized in paragraph (a) of this subsection. During any month in which employees are to be employed in an establishment under paragraph (a) of this subsection, the proportion of employee hours of employment to the total hours of employment of all employees in such establishment may not exceed a proportion equal to one-fourth (1/4) of the total hours of employment of all employees in the establishment.

(c) An employee shall initially be eligible to be paid the wage authorized by paragraph (a) of this subsection until he has been employed a cumulative total of ninety (90) days at the wage. An employee who has been employed by an employer at the wage authorized by paragraph (a) of this subsection a cumulative total of ninety (90) days may be employed by any other employer for an additional ninety (90) days if the employer notifies the commissioner annually of the positions at which the employees are to be employed at the wage, provide on-the-job training to the employees, keep on file a copy of the training program which the employer will provide the employees, provide a copy of the training program to the employees, post in a conspicuous place in places of employment a notice of the types of jobs for which the employer is providing on-the-job training, and send to the commissioner on an annual basis a copy of the notice. The term "on-the-job training" as used in this paragraph means training that is offered to an individual while employed in productive work that provides training, technical and other related skills, and personal skills that are essential to the full and adequate performance of the employment.

(d) An individual is responsible for providing the requisite proof of a previous period or periods of employment with other employers. An employer's good faith reliance on the proof presented to the employer by an individual shall constitute a complete defense to a charge that the employer has violated paragraph (c) of this subsection with respect to the individual.

(e) The provisions of subsection (3) of this section shall expire on April 1, 1993.

SB 57, AN ACT relating to workers' compensation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.230 is amended to read as follows:

(1) Upon the recommendation of the commissioner, the board, within the limits of appropriations therefor, shall establish and fill any positions, including medical services and advice, necessary to carry on the board's work. The employees of the Department of Workers' Claims, except the commissioner, administrative law judges and board members, shall be members of the classified service.

(2) The board shall employ a commissioner. The commissioner shall have immediate supervision of the employees of the department, perform such duties as are assigned him, and have complete authority, on behalf of the board, to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner shall keep and be the custodian of the records of the board and the administrative law judges, shall annually report the activities of the board and administrative law judges to the Governor, and shall devote his full time to the duties of his office. He shall receive a salary to be fixed by the board.

(3) The board shall employ with the consent of the Senate for a term of four (4) years not more than ***fifteen (15)*** [~~ten (10)~~] administrative law judges, each of whom shall have the qualifications of a circuit judge, except residence in a district, and shall be paid the same salary, shall be subject to removal during the term of employment for violation of the code of judicial ethics, and may be employed for additional terms of four (4) years with the consent of the Senate. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

(4) The board may at any time remove the commissioner. The board may remove any administrative law judge for violation of the code of judicial ethics.

(5) Any vacancy in the term of an administrative law judge shall be filled by appointment of the board, with the consent of the Senate, for the remainder of the term. In the event the Senate is not in session at the time of the appointment to fill the vacancy, the consent of the Senate shall be obtained during the time the Senate next convenes.

Section 2. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and pre-funding the liabilities of the special fund, financing the administration and operation of the division of special fund, financing the administration and operation of the Kentucky workers' compensation funding commission, and, financing the expenditures for all programs in the labor cabinet except the division of employment standards and mediation and the office of labor-management relations, as reflected in the enacted budget of the Commonwealth enacted by the General Assembly, a special fund assessment at the rate of ***sixteen and nine-tenths percent (16.9%)*** [~~twenty-three and three-tenths percent (23.3%)~~] is hereby imposed upon the amount of workers' compensation premiums received on and after ***January 1, 1990*** [~~November 1, 1987~~], by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after ***January 1, 1990*** [~~November 1, 1987~~], a special fund assessment at the rate of ***sixteen and nine-tenths percent (16.9%)*** [~~twenty-three and three-tenths percent (23.3%)~~] against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of ***forty-seven percent (47%)*** [~~forty percent (40%)~~] is hereby imposed upon the amount of workers' compensation premiums received on and after ***January 1, 1990*** [~~November 1, 1987~~], by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after ***January 1, 1990*** [~~November 1, 1987~~], an additional assessment at the rate of ***forty-seven percent (47%)*** [~~forty percent (40%)~~] of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

(c) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) On ***November 15, 1991*** [~~October 31, 1988~~], and each ***November 15*** [~~October 31~~], thereafter, the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for such past period as appropriate. If the funding commission determines that the special

fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000.000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively during the next annual period beginning on ***January 1*** [~~April 1~~] of each year. On or before ***December 1*** [~~March 1~~] of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on ***January 1*** [~~April 1~~], of each year, unless modified by the General Assembly.

(3) All assessments imposed by this section shall be paid to the Kentucky workers' compensation funding commission and shall be credited to the benefit reserve fund within the Kentucky workers' compensation funding commission.

(4) Such assessments shall be paid quarterly not later than the thirtieth (30th) day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(5) The assessments herein imposed may be collected by the insurance carrier from his insured, provided however, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, such assessment shall be collected at the same time and in the same proportion as the premium is collected. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.

(6) The funding commission, as part of the collection and auditing of the special fund assessments required herein, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each such employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees, provided however, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The division of unemployment insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(7) Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the revenue cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(8) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. Such registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(9) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(10) Notwithstanding any other provision of this section or this chapter, or the Kentucky Revised Statutes, generally, the assessment rates for the Special Fund, as determined herein, which were in force and effect on January 1, 1990, shall continue in force and effect until December 1, 1991, and the total amount of funds collected pursuant to such assessment rates shall not be limited to the provisions of this section.

Section 3. KRS 342.1222 is amended to read as follows:

(1) Every insurance carrier shall be entitled to a refund or credited with assessments paid on all cancelled or returned premiums, including dividends paid or credited to policyholders.

(2) The assessments paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580, provided that the claim for refund or credit is made by the insurance carrier within ***one (1) year*** [~~four (4) years~~] of the ***end of the policy year*** [~~due date of the return or the date the assessments were paid, whichever is later~~].

(3) A claim for refund or credit shall be made on a form prescribed by the funding commission and shall contain such information as the funding commission may require.

(4) No insurance carrier shall be entitled to a refund or credit of the assessments paid pursuant to the provisions of this chapter where the assessments have been collected from an employer as provided by KRS 342.122, unless the amount of assessments collected from the employer are refunded to him by the insurance carrier who paid the assessments to the funding commission.

Section 4. KRS 342.1223 is amended to read as follows:

(1) The Kentucky workers' compensation funding commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds" as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the department of financial institutions, in investments described in KRS Chapter 386. Provided, however, the commission shall not invest any of the funds collected pursuant to KRS 342.122 in any corporation, company, partnership or other business entity, or any bank, investment service firm or other financial entity which directly or indirectly maintains operations or has financial dealings with the Republic of South Africa;

(c) Report to the General Assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by such mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly not later than October 31 of the year prior to each regular legislative session, changes deemed necessary in the level of the assessments imposed in KRS 342.122;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly not later than October 31 of the year prior to each regular legislative session, a proposed budget for the biennium beginning July 1 following the regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the interim joint committee on appropriations and revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits independently or in cooperation with the Labor Cabinet or the Revenue Cabinet of all entities subject to the assessments imposed in KRS 342.122; and

(h) Report monthly to the committee on appropriations and revenue its monthly expenditures of restricted agency funds and the nature of such expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established including, but not limited to the power:

(a) To sue and be sued, complain or defend, in its name;

(b) To elect, appoint or hire officers, agents and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter***; and***

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the Kentucky workers' compensation funding commission shall utilize the investment expertise and advice of the office for investment and debt management rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of such funds.

(5) The commission shall be attached to the Revenue Cabinet for administrative purposes only.

SECTION 5. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The funding commission may mail to the taxpayer a notice of any assessment assessed by it. The assessment shall be final if not protested in writing to the funding commission within thirty (30) days from the date of notice. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the funding commission may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of such extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the funding commission. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the funding commission shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the funding commission, generally state the issues in controversy, the funding commission's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky board of tax appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the funding commission shall issue such ruling within thirty (30) days from the date the request is received by the funding commission.

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky board of tax appeals pursuant to the provisions of KRS 131.340.

(6) The expenses incurred by the funding commission in conducting audits required in this chapter shall be paid by the insurance companies in accordance with administrative regulations promulgated by the funding commission.

(7) "Taxpayer" as used in this section means insurance carrier, group self-insured and self-insured employer.

Section 6. The five (5) additional administrative law judges authorized in Section 1 of this Act shall, in no event, be employed by the Workers' Compensation Board unless and until they have been confirmed by the Senate as required in Section 1 of this Act.

Section 7. (1) Whereas, in House Bill 1, enacted in the 1987 Extraordinary Session of the General Assembly, assessment rates for the Workers' Compensation Special Fund were calculated to produce $110 million annually to fund the programs in the Labor Cabinet and to fund and pre-fund the liabilities of the Special Fund. Inasmuch as the amount of $110 million annually is not sufficient to meet such requirements, an emergency is therefore declared to exist and the provisions of Section 2 of this Act shall become effective upon the passage of this Act and approval by the Governor.

(2) Whereas, administrative law judges hired by the Workers' Compensation Board require Senate confirmation; the five (5) additional administrative law judges are urgently needed to dispose of a backlog of workers' compensation claims; and now, therefore, an emergency is declared to exist and the provisions of Section 1 of this Act shall become effective upon its passage and approval by the Governor.

(3) Whereas, the Kentucky Reinsurance Association has been abolished in accordance with the Kentucky Revised Statutes, and the threat of potential contingent liability could be extremely detrimental to the solvency of the Workers' Compensation Special Fund, an emergency is declared to exist and the provisions of Section 8 of this Act shall become effective upon the passage of this Act and its approval by the Governor.

Section 8. The following KRS section is repealed:

342.124 Transfer of liabilities, funds, records and property to workers' compensation funding commission.

The Committee on Economic Development and Tourism reported **HB 396**, **HB 428** with Committee Amendment attached thereto, and **HB 599** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 396, AN ACT relating to economic development through creation of tourism and recreation zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that the health, safety and welfare of the people of Kentucky are enhanced by the continual encouragement, development, growth and expansion of private enterprise within this Commonwealth. There are certain economically depressed areas in the Commonwealth with unrealized potential for tourism and recreation related development which need particular attention to create new jobs, stimulate economic activity and attract private sector investment. It is the purpose of this Act to encourage new economic activity, particularly related to tourism and recreation, in these depressed areas of the Commonwealth by means of reduced taxes and the removal of unnecessary governmental barriers to the production and earning of wages and profits and the creation of economic growth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Authority" means the Tourism and Recreation Zone Authority of Kentucky;

(2) "Tourism and recreation zone" means an area of the Commonwealth declared by the authority to be eligible for the benefits of this Act;

(3) "New business" means any person, corporation or other entity who after the time of designation of a tourism and recreation zone becomes engaged in the active conduct of a trade or business within that zone;

(4) "Existing business" means any person, corporation or other entity who during the time of designation of a tourism and recreation zone is already engaged in the active conduct of a trade or business;

(5) "Qualified business" means any new or existing business with at least fifty percent (50%) of its employees performing substantially all of their services within a tourism and recreation zone:

(a) With a new business employing individuals from one (1) or more of the following three (3) categories and constituting at least twenty-five percent (25%) of the business's employees:

1. Residents of a tourism and recreation zone;

2. Individuals who have been unemployed for at least ninety (90) days prior to obtaining employment with the business;

3. Individuals who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to obtaining employment with the business; or

(b) With an existing business creating new activity within the tourism and recreation zone which increases by not less than a twenty percent (20%) the number of its employees or by a twenty percent (20%) increase in its capital investment within eighteen (18) months from the date of application for certification as a qualified business;

(c) Any subsidiary or franchise of a new or existing business may apply to the authority for certification as a qualified business, if the subsidiary or franchise is site specific to the tourism and recreation zone and maintains separate bookkeeping for business activity conducted within the tourism and recreation zone;

(6) "Qualified property" means:

(a) Any tangible personal property located in a tourism and recreation zone used by the taxpayer in the zone in the active conduct of a trade or business;

(b) Any real property located in the zone which, on the date of its sale or exchange, was being used by the taxpayer in the active conduct of a trade or business; and

(c) Any interest in a corporation, partnership, or other entity if, for the most recent taxable year of the entity ending before the date of the sale or exchange, the entity was a qualified business; and

(7) "Qualified employee" means any employee who works for a qualified business.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any city, county or urban-county government by act of the local legislative body may designate any area or areas within their jurisdiction to be an economically depressed area. The city, county or urban-county government may then make written application to the authority to have such area or areas declared to be a tourism and recreation zone. The application shall include a description of the location of the area or areas in question and other information the authority requires.

(2) Two (2) or more cities, counties, urban-county governments or any combination thereof, may by an act of each respective legislative body, designate any area or areas within their collective jurisdictions to be an economically depressed area. After each jurisdiction has enacted the proper ordinances designating the area or areas to be economically depressed for the purpose of applying to the authority for designation as a tourism and recreation zone, each legislative body shall enter into an interlocal governmental agreement. The agreement shall be governed by the provisions of the Interlocal Cooperation Act, KRS 65.210 to 65.300, and shall include:

(a) The establishment of a joint board to administer the tourism and recreation zone which shall be comprised of representatives from each jurisdiction;

(b) A statement establishing the joint board for the life of the tourism and recreation zone;

(c) A statement establishing uniform local incentives which shall be offered by each jurisdiction;

(d) A statement establishing financial support by each jurisdiction for the administration of the joint board; and

(e) Any other requirements which may be established by the authority.

(3) Any jurisdiction with an existing tourism and recreation zone may apply to the authority to amend the boundaries of the existing zone for the purpose of joining with other jurisdictions. Any governmental unit applying to cross jurisdictional boundaries to amend the area of a tourism and recreation zone shall comply with the provisions of subsection (2) of this section and Section 4 of this Act.

(4) After approval of the interlocal governmental agreement pursuant to KRS 65.210 to 65.300, two (2) or more jurisdictions may make written application to the authority to have the area or areas declared to be a tourism and recreation zone. The application shall include a description of the area or areas in question and other information the authority requires.

(5) Upon receipt of an application, the authority shall review the application to determine whether the area or areas described in the application qualify to be designated a tourism and recreation zone.

(6) The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the unit of local government of the fact along with the reasons for the denial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Boundary changes to existing tourism and recreation zones shall not become effective until after written approval has been granted by the authority.

(2) Any jurisdiction applying to the authority for any amendment to the boundaries of an existing tourism and recreation zone shall certify the proposed area for amendment is contiguous to the existing zone.

(3) The jurisdiction applying for an amendment to the boundaries of an existing tourism and recreation zone shall submit an application under the same guidelines as the original application, with a map showing the original boundary lines and the proposed boundary line changes.

(4) Prior to granting approval for amending the boundaries of an existing tourism and recreation zone, the authority shall consider the following:

(a) The jurisdiction's commitment and incentives to be offered to support the tourism and recreation zone;

(b) If two (2) or more jurisdictions are involved, that each jurisdiction has met the requirements of Section 3 of this Act;

(c) The jurisdiction's attempt to utilize available buildings and properties within the existing zone; and

(d) Unforeseen circumstances or overriding economic factors that have occurred since the designation of the original zone.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any area or areas of a city, county or urban-county government may be designated a tourism and recreation zone which:

(a) Has a continuous boundary, and

(b) Is an area of pervasive poverty, unemployment and economic distress.

(2) An area meets the requirements of subsection (1)(b) of this section if:

(a) The average rate of unemployment in the area for the most recent eighteen (18) month period for which data are available was at least one and one-half (1 1/2) times the average national rate of unemployment for the eighteen (18) month period; and

(b) At least seventy percent (70%) of the residents living in the area have incomes below eighty percent (80%) of the median income of the residents of the city, county or urban-county government requesting designation; or

(c) The population of all census tracts in the area decreased by ten percent (10%) or more between 1970 and 1980 be between 1980 and 1990 and the city, county or urban-county government requesting designation establishes to the satisfaction of the authority that either:

1. Chronic abandonment or demolition of commercial or residential structures exist in the area, or

2. Substantial tax arrearages of commercial or residential structures exist in the area.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Anytime during the three (3) calendar years following the effective date of this Act, the authority may designate a total of seven (7) tourism and recreation zones. In deciding which areas should be designated as tourism and recreation zones, the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity, particularly related to tourism and recreation, and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employees, taking into account the resources available to the government to make the effort.

(2) Any designation of an area as a tourism and recreation zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority may remove designation of any area as a tourism and recreation zone if the area no longer meets the criteria for designation as set out in this Act or by regulation adopted by the authority pursuant to this Act. No designation shall be removed less than ten (10) years from the date of original designation. If the authority removes the designation of any area as a tourism and recreation zone pursuant to this subsection, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to Section 10 of this Act until December 31 of the twentieth year from the date of the original designation of the area as a tourism and recreation zone.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of carrying out the provisions of this Act, there is hereby created the Tourism and Recreation Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Municipal League; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; two (2) members appointed by the Governor who are qualified to represent the interests of Kentucky's tourism and recreation community; two (2) members appointed by the Governor to serve at-large; two (2) members appointed by the Governor from a list of five (5) persons nominated by the secretaries of the economic development and tourism cabinets; and the secretaries of economic development and tourism.

(2) The members shall serve a term of four (4) years, except that the first appointments shall be made as follows: three (3) for a term of one (1) year; three (3) for a term of two (2) years; three (3) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) All members shall serve until such time as their successors are qualified and appointed.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority. In addition, the Cabinet for Economic

Development shall seek the advice and cooperation of the Tourism Cabinet in carrying out the purposes of this Act. To this end, the Tourism Cabinet shall supply staff services and assistance as needed and directed by the authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall administer the provisions of this Act, and shall have the following powers and duties:

(1) To establish criteria for determining which areas qualify as tourism and recreation zones;

(2) To monitor the implementation of this Act and submit reports evaluating the effectiveness of the program and any suggestions for legislation to the Governor and General Assembly by October 1 of any year preceding a regular session of the General Assembly;

(3) To conduct a continuing evaluation program of tourism and recreation zones;

(4) To promulgate all necessary administrative regulations in accordance with the provisions of KRS Chapter 13A to carry out the purposes of this Act;

(5) To assist any qualified employer in obtaining the benefits of any incentive or inducement program provided by law and to certify qualified employers to be eligible for the benefits of this Act;

(6) To assist the governing authority of a tourism and recreation zone in obtaining assistance from any other agency of state government, including but not limited to assistance in providing training and technical assistance to qualified businesses within a zone;

(7) To review local incentives every two (2) years; and

(8) To prohibit the certification of any future qualified business within the tourism and recreation zone if the local jurisdiction is not complying with the provisions of this Act, until the time the authority deems that the jurisdiction has met the requirements of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall provide information and appropriate assistance to persons desiring to locate and engage in business in a zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(2) Irrespective of any power delegated to the authority to implement the provisions of this Act, the authority for determining if any requested licenses, permits, certificates, approvals, registrations, charters, or any other form of permission required by law shall be issued shall remain with the agency otherwise legally authorized to issue the license.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state income taxes, provided that such loans were made after the zone was officially designated.

(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

(4) The provisions of KRS 138.460 notwithstanding, motor vehicles purchased and used by qualified businesses, except for motor vehicles purchased by the qualified business for the purpose of being rented or leased to a customer on either a short or long term agreement, shall be exempt from the motor vehicle usage tax.

(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

(6) Qualifying buildings and structures within a zone shall be eligible for the moratorium on property assessment and reassessment as provided by KRS 99.595 to 99.605, or KRS 99A.050 and 132.452.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In order to carry out the purposes of this Act, any administrative body which promulgates administrative regulations pursuant to the provision of KRS Chapter 13A, may, by regulation, exempt designated tourism and recreation zones from the provisions of any regulation, in whole or in part, promulgated by that administrative body.

(2) Tourism and recreation zones shall not be exempted from the provisions of any regulation, if such exemption endangers the health and safety of the public.

(3) The authority shall conduct a review of all state administrative regulations and shall recommend to the appropriate administrative bodies the exemption of administrative regulations promulgated by the agency which would contribute to the implementation of this Act.

(4) Any exemption of an administrative regulation in designated zones shall be adopted by administrative regulation in the manner provided by KRS Chapter 13A.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Kentucky Revenue Cabinet shall assist the authority in the preparation of a joint questionnaire to be administered by the authority to qualified businesses within a tourism and recreation zone, for the purpose of the authority reporting to the General Assembly on the fiscal impact of the tourism and recreation zone program.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

This Act is known and may be cited as the "Tourism and Recreation Zone Act of 1990."

HB 428, AN ACT relating to water resources development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The West Fork Drakes Creek Dam and Reservoir Interstate Authority is hereby created. The West Fork Drakes Creek Dam and Reservoir Interstate Authority shall be a public body corporate and politic and shall be referred to as the "authority" in this Act. The authority shall develop the resources of the region embracing the Tennessee county of Sumner and the Kentucky county of Simpson by means of the construction and maintenance of a dam across the West Fork Drakes Creek and the reservoir created by this dam. The water impounded within this reservoir shall be utilized by the areas encompassing the authority to provide a source of water for both recreation and economic development to be used in industrial, commercial, agricultural, and residential activities. The authority may develop this dam and reservoir for these stated purposes.

(2) The General Assembly hereby finds that the need for the purposes for which this authority is created is evidenced by the effects which the recent droughts have had and continue to have on this area. The General Assembly also finds that an adequate supply of potable water is essential for the continued growth of this area.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board of directors and an executive committee. The board shall make policy, which shall be implemented by the executive committee and the executive director.

(2) The membership of the board shall be as follows:

(a) A member of the county legislative body of Sumner County, Tennessee and Simpson County, Kentucky, chosen by their respective legislative bodies;

(b) The mayors of the cities of Portland, Tennessee and Franklin, Kentucky;

(c) A member of the city legislative bodies from the cities of Portland, Tennessee and Franklin, Kentucky chosen by the respective legislative bodies; and

(d) A member of an industrial development board, if one (1) exists, from the city of Portland, Tennessee, and the city of Franklin, Kentucky, as appointed by the respective boards.

(3) Any member of the board may authorize someone to represent him as a designated alternate on the board, and this designated alternate shall have full authority to act in the stead of the member in all matters before the board.

(4) (a) Each local governmental entity which is authorized to designate one (1) of its members for membership on the board shall designate the member by an appropriate resolution or ordinance.

(b) Each participating governmental entity shall adopt an appropriate resolution or ordinance which shall state the intention of the local entity to participate in the authority; the resolution or ordinance shall also include a recitation of the participating entity's statutory authority for participation.

(c) The authority shall not convene or conduct business until the requirements of this subsection have been met.

(5) Any elected official's or his designated alternate's position on the board shall run concurrent with the official's elected term.

(6) Any nonelected official shall have a term of four (4) years.

(7) If a vacancy occurs on the board, the position shall be filled in the same manner as set forth in the original appointment. A vacancy shall occur when any board member no longer meets the requirements for appointment to the board.

(8) The board shall meet annually at a time and place designated by the board. The time, place, and date of this meeting shall be published in newspapers of general circulation in Sumner and Simpson counties at least seven (7) days prior to the meeting.

(9) The board at their annual meeting shall adopt or amend bylaws, if any, adopt an annual budget, elect officers, appoint an executive committee, and adopt any policies and work programs necessary for the operation of the authority and fulfillment of the purposes of the authority.

(10) Fifty percent (50%) of the membership of the board shall constitute a quorum for the conduct of the business of the authority.

(11) The act of fifty percent (50%) plus one (1) of all those voting shall be the act of the board for the execution of business.

(12) The board at its annual meeting shall elect as authority officers a chairman, vice-chairman, and a secretary-treasurer who shall serve terms of one (1) year. The chairman shall alternate between members from Tennessee and Kentucky. When a member from one (1) of the states sits as chairman, no more than one (1) other member from the state can sit as vice-chairman or secretary-treasurer.

(13) The executive committee shall be composed of the chairman, vice-chairman, secretary-treasurer and two (2) other members of the board who shall be elected from the membership of the board at its annual meeting. No more than three (3) of the executive committee shall be members from a particular state.

(14) The executive committee shall be elected for a term of one (1) year and members may be re-elected to the executive committee.

(15) The executive committee shall meet monthly and may perform as the administrative body of the authority and may act in the stead of the board.

(16) The executive committee meetings shall be open and notice of these meetings shall be published in newspapers of general circulation in Sumner and Simpson counties and shall be published at least seven (7) days prior to the meeting.

(17) Three (3) of the executive committee members shall constitute a quorum for the conduct of the business of the executive committee, and the vote of three (3) of the executive committee members shall be the act of the executive committee for the execution of business. A vacancy in the executive committee due to death or resignation shall be filled by a call meeting of the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The authority shall have the following general powers, functions and duties:

(1) Perpetual succession in the corporate name;

(2) To sue and be sued in the corporate name and to sue and be sued in either Tennessee or Kentucky with the jurisdiction of either state's courts to be determined by where the cause of action arose;

(3) To adopt, use and alter a corporate seal, which shall be judicially noticed;

(4) To enter into contracts and cooperative agreements with federal, state, and local governments and agencies thereof, with private individuals, corporations, associations, and with other organizations that the board may deem necessary or convenient in carrying out the purposes of this Act;

(5) To adopt, amend, and repeal bylaws;

(6) To employ an executive director and to appoint managers, officers, employees, attorneys and agents as the board deems necessary for the transaction of its business, fix their compensation, define their duties, and require bonds of such of them as the board may determine;

(7) To receive and expend funds from any source for staffing and other administrative expenses, research, planning, coordination, and activities deemed necessary to promote and carry out the purposes of the authority;

(8) To cooperate and coordinate its activities with local, regional, and state planning agencies in developing and implementing plans for the development of the projects of the authority;

(9) To cooperate and coordinate its activities with the federal agencies having responsibility for developing natural, human, and physical resources of the region;

(10) To cooperate with local and regional financial institutions in assembling financial resources for commercial, industrial, and other development;

(11) To enter into compacts or contractual arrangements with planning agencies of both states, for the purpose of preparing joint-comprehensive plans for the development and maintenance of the projects of the authority;

(12) To acquire and hold real and personal property or interests therein as necessary to carry out the purposes of this Act; and

(13) To have and exercise other authority deemed necessary by the board to further and promote the purpose of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The authority may construct, operate, and maintain a dam and reservoir on the West Fork Drakes Creek and foster recreational and economic developmental projects that would utilize these resources. The construction of this dam and reservoir shall not commence until the authority has first obtained the consent and approval of all necessary regulatory bodies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The authority may issue its bonds from time to time for the purpose of paying in whole or in part the cost of acquiring lands and interests therein and of constructing facilities and improvements subject to the limitations and conditions provided in this Act. Any resolution of the board authorizing the sale of bonds shall be submitted to the state funding board established by Tennessee statute and shall become effective only upon approval by that board. If the board refuses approval, it shall state in writing the reasons for the action.

(2) Except as otherwise expressly provided in this section, all bonds issued by the authority shall be payable solely out of the revenues and receipts derived from the authority's projects or of any as may be designated in the proceeding of the board under which the bonds are authorized to be issued, including debt obligations of the lessee or contracting party obtained from or in connection with the financing of a project. Notes issued in anticipation of the issuance of bonds may be retired out of the proceeds of the bonds. The bonds may be executed and delivered by the authority at any time and from time to time, may be in the form and denominations and of the terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in the installments and at the time or times not exceeding forty (40) years from the date thereof, may be payable at the place or places whether within or without the state, may bear interest at the rate or rates payable at the time or times and at the place or places and evidenced in the manner, may be executed by the officers of the authority and may contain the provisions not inconsistent herewith, as shall be provided in the proceedings of the board under which the bonds are authorized to be issued. If deemed advisable by the board, there may be retained in the proceedings under which any bonds of the authority are authorized to be issued an option to redeem all or any part thereof as specified in the proceedings, at the price or prices and after the notice or notices and on the terms and conditions as set forth in the proceedings, and as briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the authority any right or option to redeem any bonds except as provided in the proceedings under which they are issued. Any bonds of the authority may be sold at public or private sale in the manner, at the price and from time to time as determined by the board to be most advantageous, and the authority may pay all expenses, premiums, and commissions

which its board deems necessary or advantageous in connection with the issuance thereof. Issuance by the board of one (1) or more series of bonds for one (1) or more purposes shall not preclude it from issuing other bonds in connection with the same project or any other project, but the proceedings under which any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Proceeds of bonds issued by the authority may be used for the purpose of constructing, acquiring, reconstructing, improving, equipping, furnishing, bettering, or extending any project or projects as authorized by this Act, including the payment of interest on the bonds during construction of any project and for two (2) years after the estimated date of completion, and payment of engineering, fiscal, architectural and legal expenses incurred in connection with the project and the issuance of the bonds and the establishment of a reasonable reserve fund for the payment of principal of and interest on the bonds in the event of a deficiency in the revenues and receipts available for the payment.

(3) Any bonds or notes of the authority at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its refunding bonds in the amount the board deems necessary, but not exceeding the sum of the following:

(a) The principal amount of the obligations being refinanced;

(b) Applicable redemption premiums thereon;

(c) Unpaid interest on the obligations to the date of delivery or exchange of the refunding bonds.

If the proceeds from the sale of the refunding bonds are to be deposited in trust, interest shall accrue on obligations from the date of delivery to the first or any subsequent available redemption date or dates selected, in its discretion, by the board or to the date or dates of maturity, whichever shall be determined by the board to be most advantageous or necessary to the authority;

(d) A reasonable reserve for the payment of principal of and interest on the bonds and a renewal and replacement reserve;

(e) If the project to be constructed from the proceeds of the obligations being refinanced has not been completed, an amount sufficient to meet the interest charges on the refunding bonds during the construction of the project and for two (2) years after the estimated date of completion, but only to the extent that interest charges have not been capitalized from the proceeds of the obligations being refinanced; and

(f) Expenses, premiums, and commissions of the authority, including bond discounts, deemed by the board to be necessary for the issuance of the refunding bonds. A determination by the board that any refinancing is advantageous or necessary to the authority, that any of the amounts provided in the preceding sentence should be included in such refinancing, or that any of the obligations to be refinanced should be called for redemption on the first or any subsequent available redemption date permitted to remain outstanding until their respective dates of maturity, shall be conclusive.

(4) Any refund may be made whether the obligations to be refunded shall have then matured or shall thereafter mature, either by the exchange of the refunding bonds for the obligations to be refunded thereby with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds and the applications of the proceeds thereof to the payment of the obligations to be refunded thereby, and regardless of whether or not the obligations proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

(5) Prior to issuance of the refunding bonds, the board shall cause notice of its intention to issue the refunding bonds, identifying the obligations proposed to be refunded and setting forth the estimated date of delivery of the refunding bonds, to be given to the holders of the refunding bonds, to be given to the holders of the outstanding obligations by publication of an appropriate notice one (1) time each in a newspaper having general circulation in the area and in a financial newspaper published in New York, New York, and having national circulation. As soon as practicable after the delivery of the refunding bonds, and whether or not any of the obligations to be refunded are to be called for redemption, the board shall cause notice of the issuance of the refunding bonds to be given in the manner provided in the preceding sentence.

(6) If any of the obligations to be refunded are to be called for redemption, the board shall cause notice of redemption to be given in the manner required by the proceedings authorizing the outstanding obligations.

(7) The principal proceeds from the sale of any refunding bonds shall be applied only as follows:

(a) To the immediate payment and retirement of the obligations being refunded; or

(b) To the extent not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded,

and to pay any expenses incurred in connection with the refunding, but provision may be made for the pledging and disposition of any surplus, including without limitation, provision for the pledging of any surplus to the payment of the principal of and interest on any issue or series of refunding bonds. Money in any trust fund may be invested in direct obligations of, or obligations the principal of and interest on which are guaranteed by the United States government, or obligations of any agency or instrumentality of the United States government, or in certificates of deposit issued by a bank or trust company located in the state of Kentucky if the certificates shall be secured by a pledge of any obligations having any aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

(8) All bonds, refunding bonds and the interest coupons applicable thereto shall be construed to be negotiable instruments.

(9) The principal of and interest on any bonds issued by the authority may be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a mortgage or deed of trust covering all or any part of the projects from which the revenues or receipts so pledged may be derived, including any enlargements of and additions to any projects thereafter made, or by an assignment and pledge of all or any part of the authority's interest in and rights under the leases, sale contracts or loan agreements relating to the projects, or any thereof. The resolution under which the bonds are authorized to be issued and any mortgage or deed of trust may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents or payments with respect to any projects or portions thereof covered by the resolution, mortgage or deed of trust, the creation and maintenance of special funds from the revenues and from proceeds of the bonds, and the rights and remedies available in the event of default, as the board shall deem advisable and not in conflict with the provisions of this Act. Each pledge, agreement, mortgage and deed of trust made for the benefit of security of any of the bonds of the authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid.

SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The various counties, towns, and incorporated municipalities which are members of the authority may contribute to the work of the authority any amounts of money that their respective governing bodies, acting in their sole discretion, shall approve to be paid from the general fund of the respective county or city. Governing bodies of member local governments in Kentucky may levy any tax for this purpose not in conflict with the statutes of this state.

(2) No later than October of each year, the authority shall transmit to the Governors of the Commonwealth of Kentucky and the state of Tennessee a request and an amount of appropriation needed during the next fiscal year for purposes of the authority including administration, operations and capital improvements, and appropriate justification for use of the appropriation, the amount or other amount deemed appropriate by the Governor to be included in the budget transmitted to the Kentucky or Tennessee General Assembly.

SECTION 7. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The board shall annually formulate and issue a statement of objectives, priorities and programs that it has adopted or envisions to meet these objectives. This statement of objectives shall be included in the annual report.

(2) The board shall report annually to the Governors of the Commonwealth of Kentucky and state of Tennessee, and to the General Assemblies. This report shall also be transmitted to the governing bodies of each county and incorporated municipality of the authority. The report shall include a statement of financial receipts and expenditures, assets and liabilities of the authority, a summary of all activities and accomplishments for the period, and proposed plans for the next year.

(3) The Auditor of Public Accounts shall establish in cooperation with the comptroller of the treasury of Tennessee, an acceptable accounting system and an auditing requirement for the authority. Purchasing and contracting procedures adopted by the authority shall not be effective until approved by the Auditor of Public Accounts.

SECTION 8. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

All agencies and departments of state government shall extend their cooperation and lend assistance to the authority in the formulation and implementation of the purposes of this Act.

The Committee Amendment No. 1 to **HB 428** is as follows:

Amend printed copy of **HB 428** on page 2, line 18, after "***;***" by deleting "***and***"; and

On page 2, line 22 by deleting the period, "." and by adding in its place, "***; and***"; and

On page 2 after line 22, by adding a new subsection as follows:

"***(e) A commissioner or designee chosen by the board of commissioners of the Simpson County water district.***"; and

On page 16, line 3, by deleting "***shall***" and inserting in lieu thereof "***may***".

HB 599, AN ACT relating to income tax refund designations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.442 is amended to read as follows:

(1) Effective for [~~the~~] tax ***years*** [~~year~~] beginning January 1, ***1990*** [~~1988, and until the State Treasurer certifies that the assets of the Bluegrass State Games exceed twenty million dollars ($20,000,000)~~], any individual who is entitled to a tax refund sufficient to make a designation under this section may designate an amount, not to exceed the amount of the refund, to be paid to ***the Bluegrass State Games and United States Olympic Committee fund*** [~~such program~~]. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to ***the fund*** [~~said program~~]. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the [~~first page of the~~] state individual income tax return.

(3) The secretary of revenue shall annually certify by December 1 all such designated amounts to be paid by the State Treasurer. The treasurer shall annually remit by the following January 1 ***fifty percent (50%) of the*** [~~such~~] funds to the appropriate official designated by ***each of*** the governing ***bodies*** [~~body~~] of the ***Bluegrass State*** Games ***and the United States Olympic Committee on an equal basis.***

The Committee Substitute to **HB 599** is as follows:

HB 599, AN ACT relating to income tax refund designations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.442 is amended to read as follows:

(1) Effective for the tax year beginning January 1, ***1990, and for each tax year thereafter,*** [~~1988, and until the State Treasurer certifies that the assets of the Bluegrass State Games exceed twenty million dollars ($20,000,000)~~], any individual who is entitled to a tax refund sufficient to make a designation under this section may designate an amount, not to exceed the amount of the refund, to be paid to ***the Bluegrass State Games and United States Olympic Committee fund*** [~~such program~~]. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to ***the fund*** [~~said program~~]. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the [~~first page of the~~] state individual income tax return.

(3) The secretary of revenue shall [~~annually~~] certify by December 1***, 1990, and by December 1 of each year thereafter,*** all such designated amounts to be paid by the State Treasurer. The treasurer shall [~~annually~~] remit by [~~the following~~] January 1***, 1991, and by January 1 of each year thereafter, on an equal share basis, all moneys paid into the fund during the preceding tax year, to the appropriate officials designated by the governing bodies of the Bluegass State Games and the United States Olympic Committee, respectively*** [~~such funds to the appropriate official designated by the governing body of the games~~].

(4) If the governing body of either the Bluegrass State Games or the United States Olympic Committee cease to exist and function in this state, then any funds to be made available to such governing body, pursuant to subsection (3) of this section, shall be paid over to the governing body representing the remaining organization.

Calendar

HB 623, HB 608, HB 637, HB 581, HB 619, HJR 119, HJR 123, HCR 129, HB 390, HB 416,

HB 497, **HB 562**, **HB 102**, **HB 118**, **HB 341**, **SB 29**, **SB 68** and **SB 88** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 458, **HB 99**, **HB 164** and **HB 432** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 47** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:20 p.m.)

Orders of the Day

SB 135 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **SB 135** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 28, 1990 roll call on **SB 135** - Appendix.)

SB 135 was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 135** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 185 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **SB 185** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 28, 1990 roll call on **SB 185** - Appendix.)

SB 185 was passed and the title agreed to.

Representative Siler moved that the vote by which **SB 185** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 572 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 572** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 28, 1990 roll call on **HB 572** - Appendix.)

HB 572 was passed and the title agreed to.

Representative Little moved that the vote by which **HB 572** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 6 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 6** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 28, 1990 roll call on **SB 6** - Appendix.)

SB 6 was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 6** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 7 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 7** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See February 28, 1990 roll call on **SB 7** - Appendix.)

SB 7 was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 7** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 8 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 8** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 28, 1990 roll call on **SB 8** - Appendix.)

SB 8 was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 8** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 18 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 18** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 28, 1990 roll call on **SB 18** - Appendix.)

SB 18 was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 18** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **SB 31** be passed.

On the roll call the vote was: Yeas 84, Nays 5. (See February 28, 1990 roll call on **SB 31** - Appendix.)

SB 31 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **SB 31** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 123 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **SB 123** be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See February 28, 1990 roll call on **SB 123** - Appendix.)

SB 123 was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 123** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 170 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **SB 170** be passed.

On the roll call the vote was: Yeas 90, Nays 3. (See February 28, 1990 roll call on **SB 170** - Appendix.)

SB 170 was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 170** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 176, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **SB 176**. Agreed.

Representative Lear moved that **SB 176**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 4. (See February 28, 1990 roll call on **SB 176** - Appendix.)

SB 176, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 176**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 36 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **SJR 36** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 28, 1990 roll call on **SJR 36** - Appendix.)

SJR 36 was passed and the title agreed to.

Representative Hancock moved that the vote by which **SJR 36** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative R. Smith moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 162, by Representatives R. Smith and Ridley: A RESOLUTION honoring the life and memory of Paul Evers Mick.

Representative R. Smith moved the adoption of the following **HR 162**:

HR 162, A RESOLUTION honoring the life and memory of Paul Evers Mick.

WHEREAS, Paul Mick, owner and publisher of ***The Crittenden Press***, Marion, Kentucky, embodied the extraordinary characteristics of civic leader, scholar, dedicated husband and father, ethics-minded professional, and humanitarian; and

WHEREAS, as president of the Kentucky Press Association, Western Kentucky Industrial Foundation, member of the board of Farmers Bank of Marion and member of Marion United Methodist Church, he provided leadership, professional excellence, spiritual values, and an exceptional example of fine character, honor, and graciousness; and

WHEREAS, in the early morning hours of February 24, 1990, Paul Mick was aroused from sleep by an intruder in his home; and

WHEREAS, in a valiant and courageous attempt to protect his family, Paul Mick was brutally attacked and mortally wounded; and

WHEREAS, his tragic death has shocked and saddened the community of Marion, Crittenden County, Western Kentucky and all those who had the great privilege to know Paul Mick; and

WHEREAS, the loss of Paul Mick has created a void that can never be adequately filled;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House honors the life and memory of Paul Evers Mick.

Section 2. That this body extends its deepest and most heartfelt condolences to his beloved wife, Nancy, and cherished children Allison, Andrea and Lucas.

Section 3. That his many contributions to his community, the Fourth Estate and the lives of all who knew him will stand as constant memorials.

Section 4. That Paul Mick may remain clear in our memories as an exemplary man, a shining example of the finest among us.

Section 5. That when the House adjourns this day, Wednesday, February 28, 1990, it does so in honor and memory of Paul Evers Mick.

Section 6. That the Clerk of the House issue copies of this resolution to Nancy Mick, Marion, Kentucky.

HR 162 was adopted by voice vote.

Representative Ridley moved that a call of the roll be taken to show co-sponsors of **HR 162**.

On the roll call the vote was yeas 97—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 0.

Representative Donnermeyer moved the adoption of the following **HR 160**:

HR 160, A RESOLUTION designating Law Enforcement Officer Day.

WHEREAS, the administration of criminal justice is a major public concern to the everyday lives of all our citizens in the Commonwealth of Kentucky; and

WHEREAS, the most visible front line of the criminal justice system, our law enforcement officers, from the newest recruit to the oldest veteran, carry the awesome responsibility of making often instantaneous and irrevocable decisions affecting human life and safety, property rights and personal liberty; and

WHEREAS, the Commonwealth of Kentucky is blessed with professional law enforcement officers, highly qualified men and women, who, by temperament and training, are fully prepared to meet the challenge of changing social conditions; and

WHEREAS, it is fitting and proper that we give special recognition to and remember those law enforcement officers who have given their lives in the line of duty, throughout the Commonwealth and our nation, as well as those who courageously and conscientiously continue to maintain a delicate balance between the liberty of the individual and a high degree of social protection;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That February 28, 1990, be designated Law Enforcement Officer Day throughout the Commonwealth.

Section 2. That six copies of this resolution be sent to Smokey Hatfield, Fraternal Order of Police, Room 216, Capital Plaza Hotel, Frankfort, Kentucky 40601.

HR 160 was adopted by voice vote.

Representative Donnermeyer moved that a call of the roll be taken to show co-sponsors of **HR 160**.

On the roll call the vote was yeas 93—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Kerr, Layman, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 0.

Representative P. Richardson moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 48. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Donald Wayne Pace, Jr. upon your election to the student senate of Eastern Kentucky University.

Your leadership qualities, recognized by the students of Eastern Kentucky University, are noteworthy. Your fellow student senate members have chosen you to chair the college of undeclared. This honor and responsibility designates you as the youngest college chair on campus. You are a fine representative for today's youth.

This prestigious body joins Representative Paul Richardson in congratulating you upon your accomplishments. We extend to you our very best wishes for a bright future.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 49. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Donna Abner, George Rogers Clark High School, Teacher of the Month.

As a dedicated and inspirational educator, Donna Abner is devoted to the scholastic attainment and academic development of Kentucky students. Through you commitment to your students, many young Kentuckians have gained a broader education, a greater appreciation of life, and a brighter future.

This prestigious body joins Representative Paul Richardson is congratulating you on being named as a finalist for the 1989-1990 Clark County Teacher of the Year.

Representative J. Harper moved that he be withdrawn as co-sponsor of **HB 698**. Agreed.

Representative Stumbo moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following Legislative Citation No. 50. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the Prestonsburg Academic Team.

This body proudly salutes the Prestonsburg Academic Team for its many outstanding contributions to the Prestonsburg Middle School. The Prestonsburg Middle School Academic Team earned the honor of being District 85-A Champions for 1989-1990 and each member gave an extraordinary effort toward the success of the team. Participation on this championship academic team has served to instill in each member the qualities of team work, sportsmanship, pride in achievement and desire to be the best. The Prestonsburg Academic Team has brought pride, honor and recognition to the school and the community. This prestigious body salutes the Prestonsburg Academic Team and applauds the excellence and hard work that has resulted in a championship season.

Representative Stumbo individually honored the following members of the Prestonsburg Academic Team:

John Allen, Jr., Mustafa Badrudduja, Emily Damron, Kevin Farthing, Carrie Francis, Matthew Hale, Tonia Hale, Ruth Jessen, LaShea Leslie, Tonya Miller, Rick Nunnery, Stewart Robertson, and Ballard Tussey, Jr.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 795, by Representatives Sheehan and B. Richardson: AN ACT relating to retirement.

HB 796, by Representatives Walker and Deskins: AN ACT relating to a vehicle emission control program.

HB 797, by Representatives Freibert and Burch: AN ACT relating to medical assistance.

HB 798, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 799, by Representative Clarke: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 800, by Representatives Ark, Brown and Callahan: AN ACT relating to optometry.

HB 801, by Representative Gray: AN ACT relating to alcoholic beverages.

HB 802, by Representatives Mack, Freibert, Curtsinger, P. Richardson, Burch, Lyne, Ward, Blevins, Gray, Hatcher, Mason, Cline and Farrow: AN ACT relating to the rights of taxpayers.

HB 803, by Representative Lear: AN ACT relating to drugs.

HB 804, by Representative Worthington: AN ACT relating to retirement.

HB 805, by Representatives Reinhardt and Freibert: AN ACT proposing to amend the Constitution of Kentucky relative to property taxation.

HB 806, by Representatives Crupper and Hancock: AN ACT relating to mismanagement of state affairs.

HB 807, by Representative Ridley: AN ACT relating to hazardous waste and declaring an emergency.

HB 808, by Representatives Arnold and Richards: AN ACT relating to funding of community schools.

HB 809, by Representative Arnold: AN ACT relating to local governments.

HB 810, by Representative P. Richardson: AN ACT relating to employees.

HB 811, by Representatives T. Jones and Geveden: AN ACT relating to pleas in criminal cases.

HB 812, by Representatives Barrows, Crupper, Farrow, Jackson, Hancock and Long: AN ACT relating to retirement, making an appropriation therefor, and declaring an emergency.

HB 813, by Representative Ward: AN ACT relating to crimes and punishments.

HCR 161, by Representatives Gedling and P. Clark: A CONCURRENT RESOLUTION creating the Joint Committee on Paper Recycling.

HCR 163, by Representative Arnold: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Counties and Special Districts to conduct a study of local mandates in the Commonwealth of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 429, HB 430, HB 689, HB 691, HB 738, SB 148, SB 193.**

Business Organizations and Professions: **HB 732.**

Health and Welfare: **HB 633, HB 636, HB 657, HB 709, HJR 124.**

State Government: **HB 699.**

Economic Development and Tourism: **HCR 141.**

Judiciary: **HB 498, HB 601, HB 609, SB 51, SB 70, SB 103, SB 125, SB 168, SB 171, SB 172, SB 173.**

Report of Committees

The Committee on Health and Welfare reported **HB 425** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 425, AN ACT relating to acquired immunodeficiency syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that acquired immunodeficiency syndrome, otherwise known as AIDS,

constitutes a serious and unique danger to the public health and welfare. The General Assembly finds that acquired immunodeficiency syndrome is transmitted by sexual activity, by intravenous drug use, or from an infected mother to a fetus and that public fear of contagion from casual contact is not supported by any scientific evidence. The General Assembly finds that acquired immunodeficiency syndrome is transmitted by a retrovirus which makes the possibility of development of an immunization or cure highly unlikely in the near future. The General Assembly finds that, once infected, there is a high probability that an individual will develop acquired immunodeficiency syndrome or a related syndrome and die a premature death as a result, but may live productively for years in a communicable state without showing any signs or symptoms of illness. The General Assembly finds the unique methods of transmission of this disease, and its inevitably fatal course, have raised public fears; changed the attitudes of employers, insurers, educators, law enforcement personnel, and health and medical providers about dealing with the disease; and could unexpectedly raise the medical costs of this state. The General Assembly intends to establish programs and requirements related to acquired immunodeficiency syndrome which carefully balance medical necessity, the right to privacy, and protection of the public from harm and which establish public programs for the care and treatment of persons with acquired immunodeficiency syndrome and related conditions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall establish a program to educate the public about the threat of acquired immunodeficiency syndrome.

(2) The acquired immunodeficiency syndrome education program shall:

(a) Be designed to reach all segments of the Commonwealth's population;

(b) Contain special components designed to reach minority groups within the state;

(c) Impart knowledge to the public about methods of transmission of acquired immunodeficiency syndrome and methods of prevention;

(d) Educate the public about transmission risks in social, employment, and educational situations;

(e) Educate health care workers and health facilities' employees about methods of transmission and prevention in their unique workplace environments;

(f) Contain special components designed to reach persons who may frequently engage in behaviors placing them at a high risk for acquiring acquired immunodeficiency syndrome;

(g) Provide information and consultation to state agencies to educate all state employees;

(h) Provide information and consultation to state and local agencies to educate law enforcement and correctional personnel and inmates;

(i) Provide information and consultation to local governments to educate local government employees;

(j) Make information available to private employers and encourage them to distribute this information to their employees; and

(k) Contain special components which emphasize appropriate behavior and attitude change.

(3) The program designed by the Cabinet for Human Resources shall utilize all appropriate forms of the media and shall identify sources of educational materials that can be used by businesses, schools, and health care providers in the regular course of their business.

(4) The department may contract with other persons in the design, development, and distribution of the components of the education program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall approve appropriate educational courses on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, 335 and emergency medical technicians licensed pursuant to KRS Chapter 211.

(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except person's licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 4. KRS 311.450 is amended to read as follows:

(1) Every license issued for the practice of podiatry shall expire on June 30 following the date of issuance unless sooner revoked and cancelled.

(2) On or before June 1 of each year, the board shall send notices to all licensed podiatrists in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1 of each year. Every registered podiatrist shall renew his license on or before July 1 of each year by the payment to the board of an annual license renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. ***The regulations shall include a requirement to complete the course described in Section 3(1) of this Act.*** If such renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee by mail at his last known address that such fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.

(3) All fees collected under the provisions of KRS 311.380 to 311.510, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of KRS 311.380 to 311.510 including, but not limited to, salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

Section 5. KRS 311.601 is amended to read as follows:

(1) The board may adopt reasonable rules and regulations to effectuate and implement the provisions of KRS 311.550 to 311.620, including but not limited to regulations designed to insure the continuing professional competency of present and future licensees. As an adjunct to the power conferred upon the board by this section, the board may require licensees to submit to interrogation as to the nature and extent of their postgraduate medical education and to require licensees found to be deficient in their efforts to keep abreast of new methods and technology, to obtain additional instruction and training therein.

(2) The board shall require, as a part of annual continuing education, the completion of the course study described in Section 3(1) of this Act.

Section 6. KRS 312.175 is amended to read as follows:

(1) All persons who are now or may hereafter be licensed to practice chiropractic in this state shall, on or before the first day of March, annually hereafter renew his or her license and pay a renewal fee of not more than one hundred dollars ($100) each year to the board; provided that, in addition to the payment of such renewal fee, such licensee so applying for a license renewal shall furnish to the board satisfactory evidence that he or she has attended an educational program in the year preceding each such application for renewal. Satisfactory evidence of attendance of post graduate study at an institution approved by the board shall be considered equivalent. ***Any education shall include completion of the course described in Section 3(1) of this Act.*** Provided, however, that licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program or both in instances where the applicant submits an affidavit to the board evidencing that he or she, for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.

(2) The executive secretary of the board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least thirty (30) days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The executive secretary shall, within thirty (30) days, notify every person failing to renew his license after it is due that he is delinquent. Failure of any such licensee to renew his license on the next annual renewal date shall constitute sufficient grounds for the board to revoke his license. Any licensee whose license has been revoked for not more than four (4) years for failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed one hundred dollars ($100) for each delinquent year or any part thereof in addition to the renewal fee of not more than one hundred dollars ($100) and upon presentation of satisfactory evidence of post graduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this section. Any licensee whose license has been revoked for more than four (4) years for failure to renew his license may have his license restored after satisfactorily passing the examination as provided in KRS 312.115 and upon payment of the regular application fee.

Section 7. KRS 313.080 is amended to read as follows:

(1) By December 31 of each year, every dentist licensed to practice in this state shall return to the secretary-treasurer of the board evidence satisfactory to the board that such dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for such hardship or other extenuating circumstances as the board deems appropriate. ***The continuing dental education shall include completion of the course described in Section 3(1) of this Act.***

(2) By March 1 of each year every dentist licensed to practice in this state shall return to the secretary-treasurer of the board his renewal notice properly signed and a fee not to exceed fifty dollars ($50). The dentist shall thereupon receive a license renewal certificate, provided that he has also complied with the requirements of subsection (1) of this section. The board shall fix the license fee at such amount as is necessary to maintain a revolving fund at an approximate level of fifty thousand dollars ($50,000). The license fee for each year shall be set annually by the board. Notice of such change in the amount of license renewal fee shall be given to each dentist registered in the state by the secretary-treasurer not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by March 1 of each year, but any license thus suspended may be restored by the board upon the payment to the secretary-treasurer of a reinstatement fee of $50.00 within one (1) year after the suspension.

Section 8. KRS 313.305 is amended to read as follows:

(1) By December 31 of each year, every dental hygienist licensed to practice in this state shall return to the secretary-treasurer of the board, evidence satisfactory to the board that such dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. ***Continuing dental hygienist education shall include completion of the course described in Section 3(1) of this Act.*** In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for such hardship or other extenuating circumstances as the board deems appropriate. The board shall, upon the granting of such an exemption, state in the minutes of that meeting the name of the person requesting an exemption and the reasons given.

(2) By March 1 of each year, every dental hygienist licensed to practice in this state shall return to the secretary-treasurer of the board his renewal notice properly signed and a fee of ten dollars ($10) or an amount as hereinafter prescribed by the board. The dental hygienist shall thereupon receive a license renewal certificate provided that he has also complied with the requirements of subsection (1) of this section. The board may fix the annual renewal license fee at such amount, not less than ten dollars ($10) nor more than twenty dollars ($20), as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each year shall be set annually by the board. Notice of such change in the amount of license renewal fee shall be given to each dental hygienist registered in the state by the secretary-treasurer not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by March 1 of each year, but any license thus suspended may be restored by the board upon the payment to the secretary-treasurer of a reinstatement fee of twenty-five dollars ($25) within one (1) year after the suspension.

Section 9. KRS 314.073 is amended to read as follows:

(1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document the completion of continuing education requirements not to exceed thirty (30) contact hours in a given licensure period as prescribed in regulations promulgated by the board. A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.

(2) Contact hours required to satisfy the continuing education requirement shall be completed and reported in accordance with board requirements set forth by regulation.

(3) Providers of continuing education shall be approved by the board. Only continuing education activities approved by the board shall satisfy continuing education requirements stated in this section.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall maintain continuing education records and it shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing education requirements.

(6) ***The continuing education shall include the completion of the course described in Section 3(1) of this Act.***

(7) In order to offset administrative costs incurred in the implementation of the mandatory continuing education requirements, the board may charge reasonable fees as established by regulation.

Section 10. KRS 315.065 is amended to read as follows:

(1) Because of the continuous introduction of new therapeutic and diagnostic agents and changing concepts in the practice of pharmacy, it is essential that a pharmacist undertake a program of continuing education to maintain his professional competency to practice in the public interest.

(2) Effective January 1, 1983, no pharmacist's license shall be renewed until the license holder has submitted proof to the board that he has satisfactorily completed, in the previous year, a continuing education program acceptable to the board. Such continuing education requirements shall be determined by regulation of the board ***provided the course described in Section 3(1) is included***, but they shall not exceed fifteen (15) hours per year.

(3) The board shall adopt rules and regulations to carry out the provisions of this section, to include guidelines and criteria for reviewing and approving continuing education programs.

Section 11. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than seventy-five dollars ($75). Not later than February 15 of each year the secretary-treasurer shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the optometrist shall furnish the information required by such form. As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. ***The annual courses of study shall include the course described in Section 3(1) of this Act.*** The length of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year. For the year 1986 and each year thereafter, those optometrists who are certified to prescribe therapeutic pharmaceutical agents shall have an additional two (2) credit hours of continuing education in ocular therapy each year, making a total of ten (10) credit hours required for license renewal. Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within the state. The board shall waive the continuing education requirement in cases of illness or undue hardship.

(2) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Section 12. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy and be a graduate of an accredited school of physical therapy approved by the board. No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.

(2) Any person who possesses the aforementioned qualifications and who desires to apply for licensure as a physical therapist in Kentucky shall make written application therefor to the board, on forms to be provided by the board, which shall be accompanied by an application fee determined by the board but not to exceed two hundred fifty dollars ($250), no part of which shall be returned. A licensure applicant shall successfully complete a board-approved examination.

(3) If it appears from said application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, such applicant shall be admitted to the next scheduled examination and tested in such subjects as the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at such time and place as the board shall determine.

(5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by regulation, permit applicants to take the examination more than once.

(8) Beginning January 31, 1985, all licenses shall be renewed biennially , upon payment on or before March 31 of each uneven numbered year of a renewal fee to be fixed by the board in an amount not to exceed one hundred dollars ($100). ***Any licensed person seeking renewal shall include proof of the completion of the course described in Section 3(1) of this Act on the form provided by the cabinet.***

(9) Licenses which are not renewed by March 31 of each uneven numbered year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days; or

(d) The practice of chiropractic as defined in KRS 312.015(3).

Section 13. KRS 333.190 is amended to read as follows:

A medical laboratory license may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:

(1) Making false statements on an application for medical laboratory license or any other documents required by the cabinet.

(2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports.

(3) Demonstrating incompetence or making frequent errors in the performance or reporting of medical laboratory examinations and procedures.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Reporting the results determined on a specimen by a medical laboratory which has not been licensed or exempted under this chapter.

(6) Rendering a report on medical laboratory work actually performed in another medical laboratory without designating the name of the director and the name and address of the medical laboratory in which the test was performed.

(7) Knowingly having professional connection with or knowingly lending the use of the name of the licensed medical laboratory or its director to an unlicensed medical laboratory.

(8) Violating or aiding and abetting in the violation of any provision of this chapter or the rules or regulations promulgated hereunder.

(9) Failing to submit to the cabinet any report required by the provisions of this chapter or the reasonable rules and regulations promulgated hereunder.

(10) Failure of medical laboratory personnel, trainees, assistants or other individuals employed by a medical laboratory, to complete the course specified in Section 3(1) of this Act on an annual basis.

Section 14. KRS 335.150 is amended to read as follows:

(1) The board may hear grievances of persons whose applications for a license have been denied.

(2) The board may deny, revoke, or suspend any license upon proof that the person has willfully or repeatedly violated any of the provisions of KRS 335.010 to 335.160 and 335.990, ***or has failed to comply with the requirements in Section 3(1) of this Act*** or any rule or regulation promulgated by the board. ***The course described in Section 3(1) shall be completed annually and may be a part of any continuing education course.***

(3) The board shall not suspend, revoke or refuse to renew a license except after a hearing held before the board upon notice to the person charged.

(4) The notice shall be in writing, shall state the nature of the charges, the time and place of the hearing, and shall be served on the person charged by certified mail not less than thirty (30) days prior to the date of the hearing.

(5) The person charged may appear in person or by counsel, may testify and may produce evidence and witnesses on his own behalf, may cross-examine witnesses, and shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(6) The board, or its duly authorized representative on its behalf, shall have authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths. The board may invoke the aid of the Circuit Court for the county in which the hearing is held to enforce compliance with its subpoenas.

(7) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(8) At all hearings before the board the attorney general of the Commonwealth, or one of his assistants designated by him shall appear and represent the board.

(9) The decision of the board shall be by majority vote thereof.

(10) A copy of the board's order shall be sent by certified mail to the person charged at his last known address.

(11) The board may grant a rehearing when new and material evidence is offered for its consideration.

(12) Any person aggrieved by a final order of the board may within thirty (30) days of the entry of the order, appeal to the Circuit Court for the county in which he resides. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court. An appeal may be taken from the judgment of the Circuit Court on any such appeal to the Court of Appeals in accordance with the rules of civil procedure.

SECTION 15. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) As of July 1, 1991, the cabinet shall require as a condition of granting a license under the chapters specified in Sections 4 through 14 of this Act that an applicant making initial application for licensure complete an educational course approved by the cabinet on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. An applicant who has not taken a course at the time of licensure shall upon an affidavit showing good cause be allowed six (6) months to complete this requirement.

(2) The cabinet shall have the authority to adopt regulations to carry out the provisions of this section.

(3) The cabinet shall report to the General Assembly by March 1 of each year, as to the implementation and compliance with the requirements of this section.

Section 16. KRS 311.571 is amended to read as follows:

(1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read and write the English language;

(b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;

(d) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration and approved by the board;

(e) Has successfully completed, in a single sitting, an examination prescribed by the board; [~~and~~]

(f) ***Has complied with the requirements of Section 15(1) of this Act; and***

(g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read and write the English language;

(b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;

(d) Has successfully completed, in a single sitting, an examination prescribed by the board;

(e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;

(f) Has satisfactorily completed at least three (3) full years of prescribed courses of postgraduate training approved by the board; [~~and~~]

(g) ***Has complied with the requirements of Section 15(1) of this Act; and***

(h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:

(a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or

(b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and ***(h)***[~~(g)~~] of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; [~~and~~]

(c) ***Has complied with the requirements of Section 15(1) of this Act; and***

(d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.

(4) The board may grant an applicant a limited license-institutional practice for an unrenewable period of one (1) year if the applicant:

(a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e) and ***(h)***[~~(g)~~] of subsection (2) of this section;

(b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)***(d)***[~~(c)~~] of this section; [~~and~~]

(c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board***; and***

(d) Has complied with the requirements of Section 15(1) of this Act.

(5) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain licensure in the Commonwealth without further testing and training if the applicant:

(a) Has been endorsed in writing by the applicant's original licensing state as being currently licensed in good standing in that state; and

(b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.

(6) No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.

(7) Notwithstanding any of the requirements for licensure established by subsections (1) to (6) of this section, the board may deny licensure to an applicant without a prior hearing upon a finding that the applicant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice, ***if*** [~~provided that~~] upon request an applicant shall be accorded an opportunity to show cause why he should not be denied licensure.

(8) Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.

Section 17. KRS 312.085 is amended to read as follows:

(1) Any persons desiring to practice chiropractic in this state, shall make application to the board, through its executive secretary, in ***the*** [~~such~~] form and in ***the*** [~~such~~] manner [~~as may be~~] required by the board, at least thirty (30) days prior to any meeting held for examinations by the board. Each applicant shall have satisfactorily completed***:***

(a) Not less than sixty (60) semester credit hours of study from a college or university accredited by the southern association of colleges and universities or an accrediting agency recognized by the southern association of colleges and universities or any successor to the powers of either and is a graduate of an accredited chiropractic college accredited by the council on chiropractic education or their successors, and which maintains a standard and reputability approved by the board***; and***

(b) The requirements of Section 15(1) of this Act.

(2) The board may by regulation recommend a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.

(3) Applications shall be made and signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational advantages, his experience in matters pertaining to knowledge of the care of the sick, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation.

Section 18. KRS 313.040 is amended to read as follows:

(1) An applicant for a license to practice dentistry shall be of good moral character and at least eighteen (18) years of age at the time of making the application. The application shall be accompanied by evidence satisfactory to the board that the applicant***:***

(a) Has completed the requirements of Section 15(1) of this Act; and

(b) Is a graduate of and has a diploma from a reputable dental college, school or department of a reputable university, rated as acceptable by the board.

The board shall rate dental colleges, schools or departments of a university, or accept the ratings issued by accredited bodies approved by it. The application shall be made to the board in writing. It shall be accompanied by an examination fee of fifty dollars ($50), payable to the secretary-treasurer.

(2) No person shall file, or attempt to file as his own the diploma or license of another, or a forged affidavit of identification or qualification.

Section 19. KRS 313.290 is amended to read as follows:

Any person of good moral character over eighteen (18) years of age who is a graduate of an accredited high school or the equivalent, [~~and~~] has successfully completed a training program in a school of dental hygiene that is accredited by the council on dental education of the american dental association and approved by the board ***and his fulfilled the requirements of Section 15(1) of this Act***, shall be eligible to take the examination for the practice of dental hygiene.

Section 20. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed at least an approved four (4) year high school course of study or the equivalent thereof; [~~and~~] has completed the basic curriculum for preparing registered nurses in an approved school of nursing and holds a diploma therefrom***; and has fulfilled the requirements of Section 15(1) of this Act.***

(2) An applicant shall be required to pass a written examination in such subjects as the board may prescribe. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination ***shall*** [~~must~~] be received by the board at such time as prescribed by regulation by the board. Upon successfully passing ***the*** [~~such~~] examination, the board shall issue to the applicant a license to practice nursing as a registered nurse.

(3) The board shall meet for the purpose of conducting examinations of applicants for licensure as registered nurses at least once a year, at a time and place determined by the board. Notices of ***the*** [~~such~~] examinations shall be published in two (2) newspapers with statewide circulation. Notices shall be sent by mail to every applicant after applications are received, and to every approved school of nursing in this state at least sixty (60) days prior to the examination.

(4) The board may issue a license to practice nursing as a registered nurse to an applicant who has passed the state board test pool exam or an equivalent examination approved by the board and been licensed as a registered nurse under the laws of another state, territory or foreign country, if in the opinion of the board the applicant is qualified to practice professional nursing in this state.

(5) The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(6) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume ***the*** [~~such~~] title or use ***the*** [~~such~~] abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted [~~such~~] inactive status by the board in accordance with regulations promulgated by the board. [~~Such~~] Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and ***shall*** [~~must~~] complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(8) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed ***the*** [~~such~~] license to lapse by failure to renew may apply for reinstatement of ***the*** [~~such~~] license under the provisions of this chapter.

(9) A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 21. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed an organized post-basic program of study and clinical experience acceptable to the board; ***has fulfilled the requirements of Section 15(1) of this Act;*** and is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced nursing practice.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner or such other designation as determined by the board.

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume such title or use ***the*** [~~such~~] abbreviation or any other words, letters, signs or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed ***the*** [~~such~~] registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board.

Section 22. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant is in good physical and mental health, [~~and~~] has completed at least an approved four (4) year high school course of study or its equivalent, ***has fulfilled the requirements of Section 15(1) of this Act*** and has completed the required educational program in practical nursing at an approved school of nursing and holds a diploma or certificate therefrom.

(2) The board shall meet for the purpose of conducting examinations of applicants for licensure as licensed practical nurses at least once a year, at a time and place determined by the board. Notices of ***the*** [~~such~~] examinations shall be published in two (2) newspapers with statewide circulation. Notices shall be sent by mail to every applicant after applications are received, and to every approved school of practical nursing in this state at least sixty (60) days prior to the examination.

(3) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(4) An applicant shall be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination ***shall*** [~~must~~] be received by the board at ***the*** [~~such~~] time as prescribed by regulation by the board. Upon successfully passing ***the*** [~~such~~] examination the board shall issue to the applicant a license to practice as a licensed practical nurse.

(5) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the state board test pool exam or an equivalent examination approved by the board and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(6) Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume ***the*** [~~such~~] title or use ***the*** [~~such~~] abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted [~~such~~] inactive status by the board in accordance with regulations promulgated by the board. [~~Such~~] Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and ***shall*** [~~must~~] complete the requirements as established in this chapter and by regulation of the board.

(8) Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed ***the*** [~~such~~] license to lapse by failure to renew may apply for reinstatement of ***the*** [~~such~~] license under the provisions of this chapter.

(9) A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 23. KRS 315.050 is amended to read as follows:

(1) Every applicant for licensure as a pharmacist shall be not less than eighteen (18) years of age, a citizen of the United States, of good mental health and moral character, a graduate of a school or college of pharmacy approved by the board, ***shall have fulfilled the requirements of Section 15(1) of this Act,*** and shall file proof satisfactory to the board, substantiated by proper affidavits, of completion of an internship, under the supervision of a pharmacist, which shall include the selling of drugs and medical supplies, compounding prescriptions, preparing pharmaceutical preparations and keeping records and making reports required by the state and federal statutes.

(2) After ***the*** [~~such~~] applicant has passed a satisfactory examination conducted before the board under regulations prescribed by the board, he shall be entitled to a license as a pharmacist.

(3) The examination for licensure shall be given by the board at least two (2) times during each year. The examination shall be prepared to measure the competency of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed such an examination.

(4) The board shall by regulation establish standards for qualifying internship and shall determine appropriate qualifications for pharmacists supervising approved internship programs.

(5) The board shall issue certificates of internship which shall be valid for four (4) years from date of issuance. The fee for a certificate shall be set by the board.

Section 24. KRS 320.250 is amended to read as follows:

(1) Licenses to engage in the practice of optometry shall be issued only to those who qualify therefor under the provisions of KRS 320.260 or 320.270, or who successfully pass examinations conducted under the direction of the board at a time and place fixed by the board. ***Each applicant shall comply with the provisions of Section 15(1) of this Act.*** Each license certificate shall be signed by the president and secretary-treasurer and authenticated by the seal of the board.

(2) The examination shall consist of a written and clinical or practical examination and shall relate to the skills needed for the practice of optometry in this Commonwealth at the time of the examination and shall seek to determine the applicant's preparedness to exercise such skills. In regard to the written examination, the examining board, at its discretion, may:

(a) Prepare, administer and grade the examination;

(b) Approve and administer a standardized examination prepared and graded by or under the direction of the National Board of Examiners in Optometry or any other organization approved by the board as qualified to prepare such an examination;

(c) Accept the scores of the applicant from an examination prepared, administered and graded by the National Board of Examiners in Optometry or any other organization approved by the board as qualified to administer the examination.

(3) The applicant, except those granted licenses under the provisions of KRS 320.260 or 320.270, shall successfully pass both the written and clinical or practical portions of the examination.

(4) Any person seeking a license to practice optometry pursuant to the provisions of this section shall submit an application to the board on forms furnished by the board. The applicant shall show proof of the following:

(a) The applicant is not less than eighteen (18) years of age;

(b) The applicant is a graduate of a school or college of optometry accredited by a regional or professional accreditation organization which is recognized or approved by the council on post-secondary accreditation, or by the United States department of education, and which is in good standing, as determined by the board. All applicants shall have transcript credit of at least six (6) semester hours in a course or courses in general and ocular pharmacology with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye;

(c) All other information requested by the board as is set out on the application.

(5) The fee for each examination shall not exceed one hundred dollars ($100) for resident applicants and two hundred dollars ($200) for nonresident applicants.

(6) No person shall be allowed to take the examination more than three (3) times within the period of any five (5) consecutive years.

Section 25. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy, [~~and~~] be a graduate of an accredited school of physical therapy approved by the board ***and shall have fulfilled the requirements of Section 15(1) of this Act.*** No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.

(2) Any person who possesses the aforementioned qualifications and who desires to apply for licensure as a physical therapist in Kentucky shall make written application therefor to the board, on forms to be provided by the board, which shall be accompanied by an application fee determined by the board but not to exceed two hundred fifty dollars ($250), no part of which shall be returned. A licensure applicant shall successfully complete a board-approved examination.

(3) If it appears from said application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, ***the*** [~~such~~] applicant shall be admitted to the next scheduled examination and tested in ***the*** [~~such~~] subjects [~~as~~] the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at such time and place as the board shall determine.

(5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by regulation, permit applicants to take the examination more than once.

(8) Beginning January 31, 1985, all licenses shall be renewed biennially , upon payment on or before March 31 of each uneven numbered year of a renewal fee to be fixed by the board in an amount not to exceed one hundred dollars ($100).

(9) Licenses which are not renewed by March 31 of each uneven numbered year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days; or

(d) The practice of chiropractic as defined in KRS 312.015(3).

Section 26. KRS 333.100 is amended to read as follows:

The cabinet may prescribe minimal qualifications for medical laboratory personnel including, but not limited to, microbiology, serology, chemistry, hematology, immunohematology, biophysics, cytology, or pathology. ***In addition, laboratory personnel, trainees, assistants, or other individuals employed by a medical laboratory shall fulfill the requirements of Section 15(1) of this Act.***

Section 27. KRS 335.080 is amended to read as follows:

(1) The board shall issue a license as "certified social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee fixed by the board;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding six months failed to pass an examination given by the board; [~~and~~]

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars ($30)***; and***

(h) Has complied with Section 15(1) of this Act.

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

Section 28. KRS 335.090 is amended to read as follows:

(1) The board shall issue a license as "social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a baccalaureate degree in a social work or social welfare program approved by the board; or a baccalaureate degree in another field, two years experience in a social work capacity and completion of courses equivalent to a social work or social welfare program approved by the board;

(d) Has paid to the board an examination fee fixed by the board;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding six months failed to pass an examination given by the board; [~~and~~]

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars ($30)***; and***

(h) Has complied with Section 15(1) of this Act.

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

Section 29. KRS 335.100 is amended to read as follows:

(1) After one (1) year from June 21, 1974, no person shall engage in the independent practice of social work unless he meets the following requirements:

(a) Is licensed under KRS 335.010 to 335.160 and 335.990 as a certified social worker;

(b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in independent practice, the experience having been acquired under appropriate supervision.

(c) Has paid to the board an examination fee fixed by the board;

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceding six (6) months failed to pass an examination given by the board***;***

(f) Has complied with Section 15(1) of this Act.

(2) The board shall issue a certificate of qualification for independent practice stating area or areas of specialty certification. This certificate shall be displayed with the license in the licensee's principal place of practice.

(3) Areas of specialty certification shall include "clinical social work" and others as defined by the board. Any use of the titles of specialty certification ***shall be*** [~~are~~] restricted to persons so qualified under KRS 335.100.

SECTION 30. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The boards of the professions in Sections 4 to 14 and 16 to 29 of this Act and the Cabinet for Human Resources shall begin planning for the implementation of the sections of this Act which require, as a part of initial licensure, applicants for certain specified professions to complete an educational course on the transmission, control, treatment, and prevention of human immunodeficiency virus and acquired immunodeficiency syndrome. The planning shall include collecting information from the facilities and programs which educate and train the licensed professionals affected by the licensure requirements of this Act and shall also include developing rules for the implementation of the licensure requirements.

(2) The Cabinet for Human Resources shall develop instructional material on the human immunodeficiency virus, including information related to methods of transmission, education, and infection control. The materials developed under this section shall be provided to persons licensed under KRS Chapters 317 and 317A. Costs of production and distribution of the instructional materials shall be wholly assumed from the fees assessed by the licensing boards which regulate the professionals who are provided with educational materials under this section. To expeditiously and economically develop, produce, and distribute the instructional material required under this section, the Cabinet for Human Resources shall consult with the professional associations of professions to determine whether suitable instructional materials already exist that may be lawfully reproduced or reprinted.

(3) The Cabinet for Human Resources shall require all employees and clients of health facilities defined in KRS 216B.015 to complete an educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 31. KRS 18A.030 is amended to read as follows:

(1) The commissioner shall be the executive and administrative head of the department and shall supervise and control all examinations and work of the department. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the commissioner shall appoint and supervise *the* [~~such~~] staff [~~as may be~~] needed in the department to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, [~~it shall be the duty of~~] the commissioner *shall*, with the aid of his staff [~~to~~]:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

(d) Appoint *the* [~~such~~] examiners and technicians [~~as are~~] necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make *the* [~~such~~] data and the class specifications for all positions available to the press and public;

(f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

(i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for herein;

(k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(l) Make a report and submit the same to the board, the Legislative Research Commission and the Governor not later than October first of each year;

(m) Discharge ***the*** [~~such~~] other duties [~~as are~~] imposed upon him by KRS 18A.005 to 18A.200. [~~;~~]

(3)[~~(n)~~] The commissioner on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The commissioner shall [~~; and~~

~~(o)~~] keep records relative to employee turnover and report to the board, the Governor and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division and section. If any cabinet, department, bureau, division or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the commissioner shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor and the Legislative Research Commission.

(5) The commissioner shall provide to each new state employee and to each state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Human Resources and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures and referral services.

SECTION 32. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) The Justice Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for Human Resources on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, non-receipt of allowance does not exclude a law enforcement officer from the training required in this section.

(2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he shall be suspended from further service as an officer until he successfully completes the required training.

SECTION 33. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) The Corrections Cabinet shall develop an educational course on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Human Resources of not more than four (4) hours for the instruction of corrections personnel who have day to day contact with incarcerated persons and personnel who may be expected to respond to crisis situations. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. The training may be part of any continuing education program.

(2) All persons referred to in subsection (1) of this section shall successfully complete the training required. Any person holding the position referred to in subsection (1) of this section shall not fill that position for more than one (1) year without successful completion of the required training. If the persons do not successfully complete the required training within the time specified, he shall be suspended from further service until he successfully completes the required training.

Section 34. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the cabinet shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. ***The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the***

Cabinet for Human Resources. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the cabinet concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the governmental services center at Kentucky State University, by knowledgeable persons who have sufficient experience, training and education in jail operations. The corrections cabinet shall not charge a fee for training jailers, their deputies or jailers-elect.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to said office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete such training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. Any person holding the position jailer shall not exercise that position for more than one (1) year without successful completion of the required training. If a jailer does not successfully complete the required training within the time specified, he shall be suspended from further service as a jailer until he successfully completes the required training.

Section 35. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the department of criminal justice training or other courses approved by the justice cabinet after having completed the basic training course the first year of employment. ***The training course shall include material developed by the cabinet and approved by the Cabinet for Human Resources on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.***

SECTION 36. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) The Corrections Cabinet, in conjunction with the Cabinet for Human Resources, shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immunodeficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include emphasis on behavior and attitude change. The education program shall be continuously updated to reflect the latest medical information available.

(2) If there is evidence that an inmate, while in the custody of the cabinet, has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder, the cabinet shall begin a testing program which is consistent with guidelines of the Centers for Disease

Control and recommendations of the Correctional Medical Authority and shall only test persons who have been involved in or reasonably thought to have been involved in a high risk behavior. For purposes of this subsection, "high-risk behavior" includes:

1. *Sexual contact with any person;*
2. *An altercation involving exposure to body fluids;*
3. *The use of intravenous drugs;*
4. *Tattooing; and*
5. *Any other activity medically known to transmit the virus.*

(4) The results of the tests shall become a part of that inmate's medical file, accessible only to persons designated by agency administrative regulations.

(5) The cabinet shall establish policies consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority on the housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(6) The cabinet shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

SECTION 37. A NEW SECTION OF KRS CHAPTER 71 IS CREATED TO READ AS FOLLOWS:

(1) Each county and each municipal detention facility shall have a written procedure developed, in consultation with the facility medical provider, establishing conditions under which an inmate will be tested for infectious disease. The procedure shall be consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority. The person receiving the test results may divulge the test results to the jailer or chief correctional officer. However, all other provisions of the Kentucky Sexually Transmitted Disease Control Confidentiality Act in KRS 214.400 to 214.420 shall remain in effect.

(2) Serologic blood test results obtained pursuant to subsection (1) of this section shall be confidential except they may be shared with employees or officers of the jailer or chief correctional officer who are responsible for the custody and care of the affected inmate and have a need to know the information. No person to whom the results of a test have been disclosed under this section may disclose the test results to another person not authorized under this section.

(3) The results of any serologic blood test on an inmate shall become a part of that inmate's permanent medical file. Upon transfer of the inmate to any other correctional facility, the file shall be transferred in an envelope marked confidential.

Section 38. KRS 158.797 is amended to read as follows:

(1) The Department of Education shall administer the provisions of this section pursuant to regulations adopted by the State Board for Elementary and Secondary Education.

(2) As used in this section, "parenting education and family life skills" shall include age appropriate information in the following instructional areas: developing positive self esteem and self concept, determining values, setting goals, decision making, communication skills and conflict resolution, peer pressure, substance abuse prevention, personal safety and prevention of family violence, human growth and development, human sexuality, responsible sexual behavior emphasizing premarital abstinence, sexually transmitted diseases including the human immunodeficiency virus (HIV) and any other virus linked to the acquired *immunodeficiency* [~~immune deficiency~~] syndrome (AIDS), and parenting and family life skills. All instruction on human sexuality, responsible sexual behavior and sexually transmitted diseases shall emphasize, but not be limited to, discussion of self esteem, self-discipline, respect for others, the emotional, educational, health and social advantages of premarital abstinence and the development of skills with which to practice premarital abstinence.

(3) The curriculum for this plan shall be based on a model curriculum developed by the Department of Education and approved by the State Board for Elementary and Secondary Education for use as a guide by local districts.

(4) No later than September 1, 1989, all local school districts shall have ready for implementation a plan approved by the Department of Education for providing parenting and family life skills education in grades kindergarten to twelve (12). The plan shall be developed by an advisory committee composed of an

equal number of lay persons and professional resource personnel, appointed by the district superintendents. Participants shall include parents and may include teachers, school administrators, guidance counselors, social workers, school nurses, students, representatives of parent-teacher organizations, religious groups, civic groups, health and mental health agencies, criminal justice professionals, and representatives of appropriate governmental agencies.

(5) The district plan shall specify that students receive a minimum of five (5) hours of instruction in each year of the elementary grades, kindergarten to five (5); a minimum of twelve (12) hours in each year of the middle grades, six (6) to eight (8); and ninety (90) hours in any of the secondary grades, nine (9) to twelve (12). Instruction shall be provided by certified personnel who have received specialized in-service training by Department of Education approved trainers.

(6) (a) At least one (1) month prior to instruction in human sexuality education in any classroom, all instructional material to be used in the course, including materials such as films, audio-visuals and all recommended readings, shall be made available at the school for reviewing by parents and guardians. The school shall publicize the availability of the materials for viewing by parents and guardians.

(b) The local board of education shall establish a procedure whereby the parent or guardian of any student in kindergarten to sixth grade ***shall*** [~~must~~] submit a signed statement to the principal giving specific permission for the child to participate in any instruction required by this section.

(c) For students in grades seven (7) to ***nine (9)*** [~~twelve (12)~~], the parent or guardian ***shall*** [~~must~~] submit a signed statement to the principal requesting the student be exempt from ***the*** [~~such~~] instruction if the parent or guardian wishes to have the student exempted. ***If*** [~~In~~] the [~~event such~~] request is submitted, alternate instruction shall be provided for the student. In addition, instructional materials shall be provided for parents or guardians wishing to instruct their children in areas covered by the provisions of this section.

(d) Students in grades ten (10) to twelve (12) shall be allowed to be exempt from the instruction in the same manner explained in subsection (c) of this section. If a student is exempted, the student shall be required to complete a comparable course of their choice offered by private, civic or religious groups if the course meets the standards of the Department of Education.

(7) (a) The district plan for parenting and family life skills shall be reviewed and approved by the local superintendent, the local school board, and the Department of Education.

(b) No condoms or other contraceptive shall be distributed or sold in any school covered by this section, except within a school specifically designed for the education of pregnant or parenting students.

(8) Specialized in-service training shall be conducted by Department of Education approved trainers with expertise in the areas of instruction to be taught. All in-service training shall emphasize the development in teachers of the skills and resources necessary to teach children the skills with which to practice premarital abstinence. Additional resource personnel used for local instruction may be recommended by the local district advisory committee and approved according to local guidelines.

(9) The State Department of Education shall develop a method of measuring the effectiveness of the curriculum in each local school district including the setting of reasonable goals for the reduction of reported sexual activity, sexually transmitted diseases and premarital pregnancy by the 1994-95 school year and shall transmit ***the*** [~~such~~] method to each local school district. Each local school district may develop additional methods for measuring the effectiveness of the curriculum within the district.

SECTION 39. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Education shall transmit on or before October 31, 1991 to the director of the Legislative Research Commission a report on compliance by districts with Section 38 of this Act. The report shall include, but not be limited to:

(a) Number of districts offering information on the prevention of human immunodeficiency virus infection as part of the course; and

(b) Measure of student improvement in knowledge of the prevention of sexually transmitted diseases, including the most scientifically current information about modes of transmission.

(2) The director shall distribute the report to the Health and Welfare Committee members and the Education Committee members.

SECTION 40. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) State colleges and universities shall provide information on how to prevent the transmission of

the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state college or university shall inform students of the name and telephone number of a college or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 41. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in [~~such~~] federal legislation. [~~; provided, however, that~~] When [~~such~~] federal legislation requires additional representation on any [~~such~~] "single state agency," the Council on Higher Education shall establish such advisory groups as may be necessary to satisfy [~~such~~] federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests. which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the Finance and Administration Cabinet and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Monitor and report on compliance with Section 42 of this Act. The report shall be transmitted to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee.

SECTION 42. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection. Many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified elsewhere in law. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results. Consent shall not be required to be in writing if there is documentation in the medical record that the test has been explained and the consent has been obtained.

(b) Informed consent shall be obtained from a legal guardian or other person authorized by law when the person is not competent or is otherwise unable to make an informed judgment or has not reached the age of majority.

(c) No person shall order a test without making available to the person tested, prior to the test, information regarding measures for the prevention of, exposure to, and transmission of human immunodeficiency virus.

(d) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(e) No test result shall be revealed to the person upon whom the test was performed without affording that person the immediate opportunity for individual counseling, in person, about:

1. The meaning of the test results;

2. The possible need for additional testing;

3. Measures for the prevention of the transmission of the human immunodeficiency virus infection;

4. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;

5. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to the human immunodeficiency virus infection and any individual whom the infected individual may have exposed to the human immunodeficiency virus infection; and

6. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 5 of this subsection.

(f) No person, who has obtained or has knowledge of a test result pursuant to this section, shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. An authorized agent or employee of a health facility or health care provider if the health facility or health care provider itself is authorized to obtain the test results, the agent or employee provides patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a need to know such information;

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue the order unless the court finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(3) (a) The Cabinet for Human Resources shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(4) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person with a minimum number of contact hours of experience in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection, as established by the cabinet by regulation;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) The program shall meet all the informed consent criteria contained in subsection (1) of this section;

(e) The program shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312 or 313 to register with the cabinet

if he does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(5) Any violation of this section by a licensed health care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(6) Except as provided in subsection (3)(d) of this section and Section 62 of this Act, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(7) The cabinet shall develop a model protocol consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

(8) The cabinet shall adopt regulations necessary to implement this section.

SECTION 43. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Every donation of organs, skins, or other human tissue for transplantation to another shall be tested prior to use for human immunodeficiency virus infection and other communicable diseases specified by regulations of the Cabinet for Human Resources. Tests for the human immunodeficiency virus infection shall be performed only after obtaining written, informed consent from the potential donor or the donor's legal representative. Obtaining consent shall include a fair explanation of the procedures to be followed and the meaning and use of the test results. The explanation shall include a description of the confidential nature of the test as described in Section 42 of this Act. If consent for testing is not given, the person shall not be accepted as a donor.

(2) Notwithstanding the provisions of subsection (1) of this section, written informed consent to perform testing shall not be required if the organ, skin, or other human tissue is received for processing or testing from out-of-state or if tissue is received from a health care facility or health care provider for reference testing or processing and the results of the test are reported back to the facility or provider.

(3) No person shall collect any organ, skin, or other human tissue from one (1) human being and hold it for, or actually perform, any implantation, transplantation, grafting, or any other method of transfer to another human being without first testing the tissue for the human immunodeficiency virus and other communicable diseases specified by regulation of the Cabinet for Human Resources, or without performing another process approved by regulation of the Cabinet for Human Resources capable of killing the causative agent of those diseases specified by regulation.

(4) All human organs, skin, or other human tissue which is to be transplanted to another and is found positive for human immunodeficiency virus or other communicable disease specified by regulation of the Cabinet for Human Resources shall be rendered noncommunicable by the person holding the tissue or shall be destroyed, unless the human tissue is specifically labeled to identify the human immunodeficiency virus and:

(a) Is used for research purposes; or

(b) Is used to save the life of another and is transferred with the recipient's informed consent.

(5) Each person who collects organs, skin, or other human tissue, who finds evidence after confirmatory testing of human immunodeficiency virus in the donor, shall notify the donor of the presence of the virus. When notifying the donor pursuant to this requirement, the donor shall be given the following information:

(a) The meaning of the test results;

(b) Measures for the prevention of the transmission of the human immunodeficiency virus;

(c) The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;

(d) The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus; and

(e) The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (d) of this subsection.

(6) The donor shall be notified of the test results in person.

(7) The Cabinet for Human Resources shall develop, in conjunction with persons who collect human tissue, a model protocol for providing the information required in subsection (5) of this section.

(8) The Cabinet for Human Resources may adopt regulations to implement this section. In adopting regulations pertaining to this section, the cabinet shall consider the regulations of the United States Food and Drug Administration and shall conform to those rules to the extent feasible without jeopardizing the public health.

(9) Prior to the transplant of an organ or artificial insemination, the institution or physician responsible for overseeing the procedure shall provide the prospective recipient a warning as to the risks of contracting human immunodeficiency virus.

Section 44. KRS 367.175 is amended to read as follows:

(1) Every contract, combination in the form of trust and otherwise, or conspiracy, in restraint of trade or commerce in this Commonwealth shall be unlawful.

(2) It shall be unlawful for any person or persons to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce in this Commonwealth.

(3) The sale, delivery, holding, or offering for sale of any self-testing kits designed to tell persons their status concerning human immunodeficiency virus or acquired immunodeficiency syndrome or related disorders, and any advertising of such kits, shall be prohibited.

(4) In addition to any other penalties, violations of this section shall also be a Class C felony.

Section 45. KRS 214.410 is amended to read as follows:

(1) "Cabinet" means the Cabinet for Human Resources; and

(2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, non-gonococcal urethritis, mucopurulent cervicitis, acquired ***immunodeficiency*** [~~immune deficiency~~] syndrome (AIDS), ***human immunodeficiency virus (HIV),*** chlamydia trachomatis infections and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.

SECTION 46. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any person who has chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID), acute salpingitis, syphilis, or human immunodeficiency virus (HIV) infection, when the person knows he is infected with one (1) or more of these diseases and when the person has been informed that he may communicate this disease to another person through sexual intercourse, to have sexual intercourse with any other person, unless the other person has been informed of the presence of the sexually transmissible disease, the possible consequences of the sexually transmitted disease and has consented to the sexual intercourse.

Section 47. KRS 214.990 is amended to read as follows:

(1) Every head of a family who wilfully fails or refuses and every physician who fails or refuses to comply with KRS 214.010 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each day he neglects or refuses to report. Repeated failure to report ***shall be*** [~~is~~] sufficient cause for the revocation of a physician's certificate to practice medicine in this state.

(2) Any owner or person having charge of any public or private conveyance, including watercraft, who refuses to obey the rules and regulations made by the Cabinet for Human Resources under KRS 214.020 shall, for each offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than ten (10) nor more than sixty (60) days, or both.

(3) Any physician or other person legally permitted to engage in attendance upon a pregnant woman during pregnancy or at delivery who fails to exercise due diligence in complying with KRS 214.160 and 214.170 shall be fined not less than five dollars ($5) nor more than ten dollars ($10).

(4) Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense, or imprisoned in the county jail for not less than three (3) months nor more than six (6) months, or both.

(5) Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than sixty (60) days, or both.

(6) Any person who violates any provision of KRS 214.420 shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100). Each violation shall constitute a separate offense.

(7) Any person who knowingly violates any provision of KRS 214.452 to 214.466 shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

(8) Any person who violates Section 46 of this Act shall be guilty of a Class A misdemeanor, unless the person is infected with the human immunodeficiency virus; in that case, the person shall be guilty of a Class A felony. If the sexual partner of the infected person dies as a result of violation of Section 46 of this Act, the infected person shall be guilty of murder.

(9) Any person who intentionally violates the confidentiality provisions of Section 42 of this Act shall be guilty of a Class A misdemeanor.

Section 48. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the rules and regulations adopted by the secretary of the Cabinet for Human Resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(a)[~~(1)~~] Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmissible disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control of the United States Public Health Service. The cabinet shall require reporting of cases of human immunodeficiency virus infection by July 1, 1990, but shall be prohibited from requiring the reporting of or collection of names and addresses. However, a code may be used, so long as in and of itself, it would not identify the patient. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for HIV infection or any immunosuppression caused by HIV is found, for the purposes of offering or making the cure known to the patient.

(c)[~~(2)~~] The control of insects, rodents and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval or disapproval of plans for construction, modification or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d)[~~(3)~~] The construction, installation and alteration of any on-site sewage disposal system except for a system with a surface discharge;

(e)[~~(4)~~] Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(f)[~~(5)~~] The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(g)[~~(6)~~] Protection and improvement of the health of the people through better nutrition.[~~;~~]

(2)[~~(7)~~] The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20.00) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers and distributors of consumer products as defined in the Federal Consumer Product Safety Act, [~~(~~]Title 15 U.S.C. Sec. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto[~~)~~], and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the state treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of ***the*** [~~said~~] account shall lapse to the general fund at the end of each biennium.

SECTION 49. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsections (3) and (4) of this section, the cabinet and its authorized representative shall examine or cause to be examined persons suspected of being infected with or exposed to a sexually transmissible disease.

(2) Subject to the provisions of subsections (3) and (4) of this section, persons with a sexually transmissible disease shall report for appropriate treatment to a physician licensed under the provisions of KRS Chapter 311, or shall submit to treatment at a county public health department or other public facility.

(3) No person shall be apprehended, examined, or treated for a sexually transmissible disease against his will, except upon the order of a District Court. In petitioning the court for a hearing for an order, the cabinet shall show by clear and convincing evidence that a threat to the public's health and welfare exists unless the warrant is issued and shall show that all other reasonable means of obtaining compliance have been exhausted and that no other less restrictive alternative is available.

(4) No order requiring a person to be examined or treated for a sexually transmissible disease shall be issued unless:

(a) A hearing has been held of which the person has received at least seventy-two (72) hours prior written notification and unless the person has received a list of the proposed actions to be taken and the reasons for each one from the Department of Public Advocacy.

(b) The person has the right to attend the hearing, to cross-examine witnesses, and to present evidence.

(c) The person has a right to an attorney to represent him, and to have an attorney appointed on his behalf if he cannot afford one from the Department of Public Advocacy.

(5) In issuing an order requiring a person to be examined or treated, the court may, at the request of the cabinet and upon a showing of good cause, also order the person to participate in a designated education or counseling program, or appear before the cabinet at regular intervals for periodic retesting, or both, as the court determines appropriate based on the person's actions, statements, and risk to the public.

(6) When a sexually transmissible disease is not capable of being treated on an outpatient basis in order to render it noncommunicable, or when a sexually transmissible disease can be treated only by requiring hospitalization, the provisions of subsections (8) to (13) of this section rather than subsections (1) to (6) of this section shall be applied. However, a person may be examined for this type of sexually transmissible disease under the provisions of this section.

(7) For the purposes of this section, authorized representatives of the cabinet means local and district health departments, physicians licensed pursuant to KRS Chapter 311, and any health facility designated by the cabinet.

(8) A judge, upon being presented evidence by the cabinet that a danger to the public health exists, shall hold a hearing to determine whether the infected person should be detained in a hospital.

(9) In considering the evidence, the judge shall determine whether the public's health and welfare are significantly endangered by a person with a sexually transmissible disease, and whether the person with the sexually transmissible disease has been counseled about the disease, about the significant threat the disease poses to other members of the public, and about methods to minimize the risk to the public and despite the counseling indicates an intent to expose the public to infection from the sexually transmissible disease. It shall be shown that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists.

(10) No person shall be ordered to be hospitalized by a court unless:

(a) A hearing has been held of which the person has received at least seventy-two (72) hours prior written notification and unless the person has received a list of the proposed actions to be taken and the reasons for each one.

(b) The person has the right to attend the hearing, to cross-examine witnesses, and to present evidence.

(c) The person has a right to an attorney to represent him, and to have an attorney appointed on his behalf, from the Department of Public Advocacy, if he cannot afford one.

(11) An order for hospitalization, if issued, shall be valid for no more than one hundred twenty (120) days, or for a shorter period of time if the cabinet, or the court upon petition, determines that the person no longer poses a substantial threat to the community. Orders for hospitalization shall contain additional requirements for adherence to a treatment plan or participation in counseling or education programs as

appropriate. The orders shall not be renewed without affording the person all rights conferred in subsections (9) and (10) of this section.

(12) No order for hospitalization shall require the placement of a person under the age of eighteen (18) years in a unit of a facility where adults reside or have been hospitalized or placed.

(13) No order for hospitalization shall require the placement of a person in a facility designated for the treatment of acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection when that facility contains the maximum number of persons for which the General Assembly has appropriated funds in the biennial appropriations act.

(14) The cabinet may establish, directly or by contract, facilities to serve persons ordered to be hospitalized pursuant to a court order under this section.

SECTION 50. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall file a petition before a District Court requesting that a prehearing detention order be placed on a person when the cabinet provides evidence that:

(a) The person is infected with a sexually transmitted disease;

(b) The person is engaging in behaviors which create an immediate and substantial threat to the public;

(c) The person evidences an intentional disregard for the health of the public and refuses to conduct himself in such a manner as to not place others at risk;

(d) The person will not appear at a hearing scheduled under Section 49 of this Act;

(e) The person will leave the jurisdiction of the court prior to his hearing date; and

(f) The person will continue to expose the public to the risk of a sexually transmissible disease until his hearing date.

(2) No prehearing detention order may be issued unless the court finds that:

(a) The cabinet has requested a hearing under Section 49 of this Act to consider the examination, treatment, or placement of the person infected with a sexually transmissible disease;

(b) The cabinet presents evidence that a substantial danger to the public health will exist unless the prehearing detention order is issued;

(c) The cabinet has no other reasonable alternative means of reducing the threat to the public health; and

(d) The cabinet is likely to prevail on the merits in a hearing under Section 49 of this Act.

(3) When issuing an order for a prehearing detention, the court shall direct a peace officer to immediately confine the person infected with or reasonably suspected of being infected with a sexually transmissible disease in a hospital specified in the order.

(4) A person detained under this section shall be taken before a judicial officer for bail determination within twenty-four (24) hours of detention. The purpose of a bail determination shall be to ensure the appearance of the person detained at the hearing scheduled pursuant to Section 49 of this Act. When determining whether to release the person on bail or other conditions, and what the bail or those conditions may be, the court shall consider the person's past and present conduct, previous flight to avoid prosecution, or failure to appear at court proceedings. The person detained shall be entitled to be represented by counsel and to have counsel appointed on his behalf if he cannot afford one. The person shall be entitled to present witnesses and evidence, and to cross-examine witnesses.

(5) A person detained under this section may apply for a writ of habeas corpus attacking the detention.

(6) Upon motion of the person confined under a detention order, the notice periods for hearings required under Section 49 of this Act may be waived. In no case may an order for a detention under this section exceed three (3) days.

SECTION 51. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) When requesting an order from a District Court under the provisions of Sections 49 and 50 of this Act, the cabinet shall substitute a pseudonym for the true name of the person to whom the order

pertains. The actual name of the person shall be revealed to the court only in camera, and the court shall seal the name from further revelation.

(2) All court decisions, orders, petitions, and other formal documents shall be styled in a manner to protect the name of the party from public revelation.

(3) The cabinet and its authorized representatives, the court, and other parties to the lawsuit shall not reveal the name of any person subject to these proceedings except as permitted in KRS 214.420.

(4) All notices required to be given, all petitions and warrants, and all processes issued and all orders entered pursuant to Sections 49 and 50 of this Act shall be served by a peace officer of the county in which the person alleged to be infected with a sexually transmissible disease resides or is found.

(5) The judge, in his order for hospitalization or placement in another health care or residential facility under Section 49 of this Act, shall direct a peace officer of the county in which the person resides or is found to take the person into his custody and immediately deliver him to the director of the facility named in the order.

(6) The cabinet shall develop in conjunction with the Administrative Office of the Courts and furnish to the District Court all forms necessary under Sections 49 and 50 of this Act, and the court shall use the forms it determines appropriate.

(7) Any person who is aggrieved by the entry of an order under Sections 49 and 50 of this Act shall have the period of time provided by the Rules of Appellate Procedures within which to appeal the order. Every order entered under the terms of Sections 49 and 50 of this Act shall be executed immediately unless the court entering the order or the appellate court, in its discretion, enters a supersedeas order and fixes the terms and conditions thereof.

(8) Any person who is examined, treated, hospitalized or placed in emergency hold as a result of an order entered under Sections 49 and 50 of this Act may at any time petition the District Court for immediate release and termination of the order.

(9) Any person petitioning a court for immediate release and termination of the order entered under authority of Sections 49 and 50 of this Act shall show that the original order was issued by mistake or fraud; or

(a) That there has been a substantial change in the original facts and circumstances upon which the order was issued; or

(b) That he no longer poses an immediate and substantial threat to the health and welfare of the public.

(10) When considering a petition for immediate release, and prior to making any release, the court shall consult the cabinet and the patient's physician, if any, concerning the patient's medical condition and any other related factors that may affect the present and future danger to the public that may be caused by the patient's release.

(11) When granting a petition for immediate release, the court shall impose those conditions it believes reasonably necessary to protect the public from infection with a sexually transmissible disease.

(12) Persons who have been hospitalized, placed in another health care or residential facility, or isolated in their residences shall be granted a short term temporary leave at the discretion of the cabinet or its authorized representatives if the cabinet determines that the temporary leave will be closely monitored and will not endanger the public health. Temporary leave shall be granted for therapeutic purposes, in the event of death or critical illness in the person's family, or for another emergency. When granting the temporary leave, the cabinet shall consider whether the behavior for which the person was detained has a likelihood of reoccuring and whether the person will voluntarily return to detention at the end of the temporary leave.

SECTION 52. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) If the defendant is able to pay, he shall pay all fees and costs associated with this action.

(2) If the defendant is found by the court to be indigent, all fees and costs shall be waived and defendant shall be represented by an attorney from, or under contract to the Department of Public Advocacy.

SECTION 53. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The cabinet, on an annual basis, shall estimate the potential impact of acquired immunodeficiency syndrome and human immunodeficiency virus infection on total state spending for health.

SECTION 54. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for the disclosure of otherwise confidential information under the following circumstances:

(a) If a patient of the physician has tested positive for human immunodeficiency virus discloses to the physician the identity of a spouse; and

(b) The physician recommends the patient notify the spouse of the positive test and refrain from engaging in sexual activity in a manner likely to transmit the virus and the patient refuses; and

(c) If pursuant to a perceived civil duty or the ethical guidelines of the profession, the physician reasonably and in good faith advises the spouse of the patient of the positive test and facts concerning the transmission of the virus.

(2) Notwithstanding the foregoing, a physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for failure to disclose information relating to a positive test result for human immunodeficiency virus of a patient to a spouse.

SECTION 55. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for a sexually transmissible disease as defined by KRS 214.410 under direction of the Cabinet for Human Resources and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for Human Resources to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.

(2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmissible disease and knew or had been informed that he had tested positive for a sexually transmissible disease pursuant to KRS 214.410 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(3) Any person who commits prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

SECTION 56. A NEW SECTION OF KRS CHAPTER 207 IS CREATED TO READ AS FOLLOWS:

(1) Any person with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus shall have every protection made available to handicapped persons under KRS 207.130 to 207.240 and Section 504, Public Law No. 93-112, the Rehabilitation Act of 1973.

(2) (a) No person may require an individual to take a human immunodeficiency virus related test as a condition of hiring, promotion, or continued employment, unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification for the job in question.

(b) A person who asserts that a bona fide occupational qualification exists for human immunodeficiency virus-related testing shall have the burden of proving that:

1. The human immunodeficiency virus-related test is necessary to ascertain whether an employee is currently able to perform in a reasonable manner the duties of the particular job or whether an employee will present a significant risk of transmitting human immunodeficiency virus infection to other persons in the course of normal work activities; and

2. There exists no means of reasonable accommodation short of requiring the test.

(3) (a) A person shall not discriminate against an otherwise qualified individual in housing, public accommodations, or governmental services on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus.

(b) A person or other entity receiving or benefiting from state financial assistance shall not discriminate against an otherwise qualified individual on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus.

(c) A person who asserts that an individual who is infected with human immunodeficiency virus is not otherwise qualified shall have the burden of proving that no reasonable accommodation can be made to prevent the liklihood that the individual will, under the circumstances involved, expose other individuals to a significant possibility of being infected with human immunodeficiency virus.

(d) No person shall fail or refuse to hire or discharge any individual, segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the fact that the individual is a licensed health care professional who treats or provides patient care to persons infected with human immunodeficiency virus.

SECTION 57. A NEW SECTION OF KRS CHAPTER 207 IS CREATED TO READ AS FOLLOWS:

(1) The fact that an occupant of real property is infected or has been infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome is not a material fact that shall be disclosed in a real estate transaction.

(2) No cause of action shall arise against an owner of real property or his agent, or any agent of a transferee of real property for the failure to disclose to the transferee that an occupant of that property was infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome.

SECTION 58. A NEW SECTION OF KRS CHAPTER 207 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a violation of Sections 56, 60, 61 or 62 of this Act shall have a right of action in District Court and may recover for each violation:

(a) Against any person who violates a provision of this section, liquidated damages of one thousand dollars ($1,000) or actual damages, whichever is greater.

(b) Against any person who intentionally or recklessly violates a provision of this section, liquidated damages of five thousand dollars ($5,000) or actual damages, whichever is greater.

(c) Reasonable attorney's fees.

(d) Such other relief, including an injunction, as the court shall deem appropriate.

(2) Nothing in this section limits the right of the person aggrieved by a violation of this section to recover damages or other relief under any other applicable law.

Section 59. KRS 207.140 is amended to read as follows:

(1) Nothing contained in KRS 207.130 to 207.240 shall be construed to prevent an employer from making any pre-employment inquiry about the existence of an applicant's handicap and about the extent to which that handicap has been overcome by treatment, medication, appliances, or other rehabilitation.

(2) Nothing contained in KRS 207.130 to 207.240 shall be construed to prohibit the rejection of an applicant for employment or housing on the basis of:

(a) A physical handicap which interferes with a person's ability to adequately perform assigned job duties; *or*

(b) Any handicap which is not demonstrable by medically accepted clinical or laboratory diagnostic techniques, including, but not limited to, alcoholism, drug addiction, and obesity[~~; or~~

~~(c) Any communicable disease, either carried by, or afflicting the applicant~~].

Section 60. KRS 207.150 is amended to read as follows:

(1) No employer shall fail or refuse to hire, discharge or discriminate against any handicapped individual with respect to wages, rates of pay, hours, or other terms and conditions of employment because of *the* [~~such~~]

person's physical handicap unless ***the*** [~~such~~] handicap restricts that individual's ability to engage in the particular job or occupation for which he or she is eligible, or unless otherwise provided by law ***or, on the basis of the results of a human immunodeficiency virus-related test, unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification of the job in question***; nor shall any employer limit, segregate or classify handicapped individuals in any way which would deprive or tend to deprive any handicapped individual of employment opportunities or otherwise affect employee status because of physical handicap, ***or on the basis of the results of a human immunodeficiency virus-related test,*** unless ***the*** [~~such~~] handicap ***or absence of human immunodeficiency virus infection,*** constitutes a bona fide and necessary reason for ***the*** [~~such~~] limitation, segregation or classification. This subsection shall not be construed to require any employer to modify his physical facilities or grounds in any way, or exercise a higher degree of caution for a handicapped individual than for any person who is not a handicapped individual.

(2) No employment agency, placement service, training school or center or labor organization shall fail or refuse to refer for employment or otherwise discriminate against individuals because of physical handicap.

Section 61. KRS 207.160 is amended to read as follows:

No labor organization shall exclude or expel from its membership, or otherwise discriminate against individuals because of physical handicap ***or on the basis of a human immunodeficiency virus related test***; nor shall a labor organization limit, segregate, or classify its membership, nor classify or fail or refuse to refer for employment any handicapped individual, in any way which would deprive or tend to deprive any handicapped individual of employment opportunities, or otherwise affect employee status or employment applicant status or as would adversely affect such person's wages, hours or conditions of employment, because of physical handicap ***or on the basis of a human immunodeficiency virus related test.***

SECTION 62. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in Kentucky on or after the effective date of this Act.

(2) This section shall not prohibit an insurer from contesting the validity of an insurance contract or whether a claim is covered under an insurance contract to the extent allowed by law.

(3) As used in this section:

(a) "HIV" means the human immunodeficiency virus identified as the causative agent of acquired immunodeficiency syndrome (AIDS) or any other type of immunosuppression caused by the human immunodeficiency virus.

(b) "Insurance contract" means a contract issued by an insurer as defined in this section; and

(c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and health service corporation, a health maintenance organization, or a prepaid dental plan organization.

(4) (a) In the underwriting of an insurance contract regarding HIV infection and health conditions derived from such infection, the insurer shall utilize medical tests which are reliable predictors of risk. Only a test which is recommended by the Centers for Disease Control or by the Food and Drug Administration is deemed to be reliable for the purposes of this section. If a specific Centers for Disease Control or Food and Drug Administration recommended test indicates the existence or possible existence of HIV infection or a health condition related to the HIV infection, before relying on a single test to deny issuance of an insurance contract, limit coverage under an insurance contract, or to establish the premium for an insurance contract, the insurer shall follow the applicable Centers for Disease Control or Food and Drug Administration recommended test protocol and shall utilize any applicable Centers for Disease Control or Food and Drug Administration recommended follow-up tests or series of tests to confirm the indication.

(b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the HIV infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for Human Resources. The notification shall include:

1. Face-to-face post test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;

2. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;

3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and

4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3 of this paragraph.

(d) A medical test for HIV infection or for a health condition derived from the infection shall only be required or given to an applicant for an insurance contract on the basis of the applicant's health condition or health history, on the basis of the amount of insurance applied for, or if the test is required of all applicants.

(e) An insurer may ask whether an applicant for an insurance contract has been tested positive for HIV infection or other health conditions derived from such infection. Insurers shall not inquire whether the applicant has been tested for or has received a negative result from a specific test for HIV infection or for a health condition derived from such infection.

(f) Insurers shall maintain strict confidentiality of the results of tests for HIV infection or a specific health condition derived from HIV infection. Information regarding specific test results shall be disclosed only as required by law or pursuant to a written request or authorization by the applicant. Insurers may disclose results pursuant to a specific written request only to the following persons:

1. The applicant;

2. A licensed physician or other person designed by the applicant;

3. An insurance medical information exchange under procedures that are used to assure confidentiality, such as the use of general codes that also cover results of tests for other diseases or conditions not related to HIV infection;

4. For the preparation of statistical reports that do not disclose the identity of any particular applicant;

5. Reinsurers, contractually retained medical personnel, and insurer affiliates if these entities are involved solely in the underwriting process and under procedures that are designed to assure confidentiality;

6. To insurer personnel who have the responsibility to make underwriting decisions; and

7. To outside legal counsel who needs the information to represent the insurer effectively in regard to matters concerning the applicant.

(g) Insurers shall use for the processing of HIV related tests only those laboratories that are certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, which permit testing of specimens in interstate commerce, and which subject themselves to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control.

(5) (a) An insurance contract shall not exclude coverage for HIV infection. An insurance contract shall not contain benefit provisions, terms, or conditions which apply to HIV infection in a different manner than those which apply to any other health condition. Insurance contracts which violate this paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-130(1)(a), 304.32-160, 304.38-050, and 304.43-030.

(b) Group insurance contracts shall not exclude coverage of persons eligible for coverage under the contract because of a positive test result for HIV infection or a health condition derived from HIV infection, either as a condition for or subsequent to issuance of the group insurance contract.

(c) A health insurance contract shall not be cancelled or nonrenewed solely because a person or persons covered by the contract has been diagnosed as having or has been treated for HIV infection.

(d) Sexual orientation shall not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the HIV infection. Neither the marital status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant's sexual orientation.

(e) This subsection does not prohibit the issuance of accident only or specified disease insurance contracts.

Section 63. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(e) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

SECTION 64. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 62(4)(d) of this Act shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100). Each violation shall constitute a separate offense.

SECTION 65. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As a condition of being issued a certificate as an emergency medical technician, the applicant shall have completed a cabinet approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 66. KRS 211.964 is amended to read as follows:

The cabinet for human resources shall adopt rules and regulations relating to emergency medical technicians. The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services; however, no additional testing or course work shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills. Recertification programs shall be organized to include continuing education and in-service training approved by the cabinet. ***The continuing education program shall be subject to the requirements of Section 3(1) of this Act.***

Section 67. KRS 311.654 is amended to read as follows:

(1) The board of medical licensure shall adopt rules and regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and certification of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

(2) Any continuing education required by the board of medical licensure shall include a Cabinet for Human Resources approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

SECTION 68. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board of medical licensure shall, by regulation, require an applicant for certification as a paramedic to have completed a Cabinet for Human Resources approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 69. KRS 311.908 is amended to read as follows:

(1) The board of medical licensure is hereby authorized to certify athletic trainers consistent with the provisions of KRS 311.902 to 311.928 and to adopt rules and regulations necessary for the performance of its duties.

(2) The board shall prescribe application forms for certification.

(3) The board shall establish guidelines for athletic trainers in the state and conduct a certification examination based on recommendations of the council.

(4) The board shall require, as a part of any continuing education requirement, person's certified as athletic trainers to complete a Cabinet for Human Resources approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 70. KRS 311.916 is amended to read as follows:

(1) An applicant for an athletic trainer certificate ***shall*** [~~must~~] possess one of the following qualifications:

(a) Have met the athletic training curriculum requirements of a college or university approved by the board and give proof of graduation; or

(b) Hold a certificate or a degree in physical therapy and have completed: (1) a basic athletic training course; (2) a first aid and a cardio-pulmonary resuscitation course; (3) a nutrition course; and (4) have spent a minimum of 600 clock hours working under the direct supervision of an approved athletic trainer. The board may waive or alter the hour requirements if the applicant can demonstrate equivalent experience; or

(c) Have completed at least four (4) years beyond the secondary school level, while either an undergraduate or graduate student, as an apprentice athletic trainer at a college or university under the direct supervision of an athletic trainer approved by the board. ***The*** [~~Said~~] four (4) years ***shall*** [~~must~~] be consecutive years of supervision, military duty excepted. An applicant for certification under this provision ***shall*** [~~must~~] show proof of graduation from an accredited college or university and successful completion of courses in athletic training, first aid, cardio-pulmonary resuscitation, nutrition, anatomy, physiology and kinesiology.

(2) An out-of-state applicant ***shall*** [~~must~~] fulfill one of the above stated qualifications, (1)(a), (b), or (c). The Commonwealth of Kentucky may grant, without examination, a certificate to any qualified nonresident athletic trainer holding a license or certificate in another state if ***the*** [~~such~~] other state recognizes certificates of the Commonwealth of Kentucky in the same manner. An out-of-state applicant from a state not having a licensure or certification act ***shall*** [~~will~~] be eligible to take the Kentucky certification examination if certified by the national athletic trainers' association and approved by the board.

(3) Any applicant for an athletic trainer certificate shall complete an educational course of the type specified in Section 69(4) of this Act.

Section 71. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned.

Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the cabinet for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly, fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(18) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(19) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer or employe of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(24) Any person who violates the provisions of KRS 311.820 is guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by Section 43 of this Act, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

Section 72. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) He has resided in the county wherein he is appointed to serve for a period of at least two (2) years; this subsection shall apply only to deputy sheriffs, deputy constables, and to special local peace officers appointed pursuant to KRS 61.360;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

(5) He has complied with the provisions of Section 73 of this Act.

SECTION 73. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Law Enforcement Council shall develop in conjunction with the Cabinet for Human Resources an educational program on human immunodeficiency virus infection and acquired immunodeficiency virus syndrome of not more than four (4) hours to be delivered by the Department of Criminal Justice Training to all law enforcement officers subject to the provisions of KRS 15.440 or 61.300. The educational program shall be completed annually.

(2) The educational program may be a part of any continuing education program offered by the Department of Criminal Justice Training.

The Committee Substitute to HB 425 is as follows:

HB 425, AN ACT relating to acquired immunodeficiency syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that acquired immunodeficiency syndrome, otherwise known as AIDS, constitutes a serious and unique danger to the public health and welfare. The General Assembly finds that acquired immunodeficiency syndrome is transmitted by sexual activity, by intravenous drug use, or from an infected mother to a fetus and that public fear of contagion from casual contact is not supported by

any scientific evidence. The General Assembly finds that acquired immunodeficiency syndrome is transmitted by a retrovirus which makes the possibility of development of an immunization or cure highly unlikely in the near future. The General Assembly finds that, once infected, there is a high probability that an individual will develop acquired immunodeficiency syndrome or a related syndrome and die a premature death as a result, but may live productively for years in a communicable state without showing any signs or symptoms of illness. The General Assembly finds the unique methods of transmission of this disease, and its inevitably fatal course, have raised public fears; changed the attitudes of employers, insurers, educators, law enforcement personnel, and health and medical providers about dealing with the disease; and could unexpectedly raise the medical costs of this state. The General Assembly intends to establish programs and requirements related to acquired immunodeficiency syndrome which carefully balance medical necessity, the right to privacy, and protection of the public from harm and which establish public programs for the care and treatment of persons with acquired immunodeficiency syndrome and related conditions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall establish a program to educate the public about the threat of acquired immunodeficiency syndrome.

(2) The acquired immunodeficiency syndrome education program shall:

(a) Be designed to reach all segments of the Commonwealth's population;

(b) Contain special components designed to reach minority groups within the state;

(c) Impart knowledge to the public about methods of transmission of acquired immunodeficiency syndrome and methods of prevention;

(d) Educate the public about transmission risks in social, employment, and educational situations;

(e) Educate health care workers and health facilities' employees about methods of transmission and prevention in their unique workplace environments;

(f) Contain special components designed to reach persons who may frequently engage in behaviors placing them at a high risk for acquiring acquired immunodeficiency syndrome;

(g) Provide information and consultation to state agencies to educate all state employees;

(h) Provide information and consultation to state and local agencies to educate law enforcement and correctional personnel and inmates;

(i) Provide information and consultation to local governments to educate local government employees;

(j) Make information available to private employers and encourage them to distribute this information to their employees; and

(k) Contain special components which emphasize appropriate behavior and attitude change.

(3) The program designed by the Cabinet for Human Resources shall utilize all appropriate forms of the media and shall identify sources of educational materials that can be used by businesses, schools, and health care providers in the regular course of their business.

(4) The department may contract with other persons in the design, development, and distribution of the components of the education program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall approve appropriate educational courses on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, 335 and emergency medical technicians licensed pursuant to KRS Chapter 211.

(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except person's licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 4. KRS 311.450 is amended to read as follows:

(1) Every license issued for the practice of podiatry shall expire on June 30 following the date of issuance unless sooner revoked and cancelled.

(2) On or before June 1 of each year, the board shall send notices to all licensed podiatrists in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1 of each year. Every registered podiatrist shall renew his license on or before July 1 of each year by the payment to the board of an annual license renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. ***The regulations shall include a requirement to complete the course described in Section 3(1) of this Act.*** If such renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee by mail at his last known address that such fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.

(3) All fees collected under the provisions of KRS 311.380 to 311.510, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of KRS 311.380 to 311.510 including, but not limited to, salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

Section 5. KRS 311.601 is amended to read as follows:

(1) The board may adopt reasonable rules and regulations to effectuate and implement the provisions of KRS 311.550 to 311.620, including but not limited to regulations designed to insure the continuing professional competency of present and future licensees. As an adjunct to the power conferred upon the board by this section, the board may require licensees to submit to interrogation as to the nature and extent of their postgraduate medical education and to require licensees found to be deficient in their efforts to keep abreast of new methods and technology, to obtain additional instruction and training therein.

(2) Any continuing medical education requirement which the board may institute by regulation shall include the completion of the course described in Section 3(1) of this Act.

Section 6. KRS 312.175 is amended to read as follows:

(1) All persons who are now or may hereafter be licensed to practice chiropractic in this state shall, on or before the first day of March, annually hereafter renew his or her license and pay a renewal fee of not more than one hundred dollars ($100) each year to the board; provided that, in addition to the payment of such renewal fee, such licensee so applying for a license renewal shall furnish to the board satisfactory evidence that he or she has attended an educational program in the year preceding each such application for renewal. Satisfactory evidence of attendance of post graduate study at an institution approved by the board shall be considered equivalent. ***Any education shall include completion of the course described in Section 3(1) of this Act.*** Provided, however, that licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program or both in instances where the applicant submits an affidavit to the board evidencing that he or she, for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.

(2) The executive secretary of the board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least thirty (30) days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The executive secretary shall, within thirty (30) days, notify every person failing to renew his license after it is due that he is delinquent. Failure of any such licensee to renew his license on the next annual renewal date shall constitute sufficient grounds for the board to revoke his license. Any licensee whose license has been revoked for not more than four (4) years for failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed one hundred dollars ($100) for each delinquent year or any part thereof in addition to the renewal fee of not more than one hundred dollars ($100) and upon presentation of satisfactory evidence of post graduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this section. Any licensee whose license has been revoked for more than four (4) years for failure to renew his license may have his license restored after satisfactorily passing the examination as provided in KRS 312.115 and upon payment of the regular application fee.

Section 7. KRS 313.080 is amended to read as follows:

(1) By December 31 of each year, every dentist licensed to practice in this state shall return to the secretary-treasurer of the board evidence satisfactory to the board that such dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be

adopted by the board. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for such hardship or other extenuating circumstances as the board deems appropriate. ***The continuing dental education shall include completion of the course described in Section 3(1) of this Act.***

(2) By March 1 of each year every dentist licensed to practice in this state shall return to the secretary-treasurer of the board his renewal notice properly signed and a fee not to exceed fifty dollars ($50). The dentist shall thereupon receive a license renewal certificate, provided that he has also complied with the requirements of subsection (1) of this section. The board shall fix the license fee at such amount as is necessary to maintain a revolving fund at an approximate level of fifty thousand dollars ($50,000). The license fee for each year shall be set annually by the board. Notice of such change in the amount of license renewal fee shall be given to each dentist registered in the state by the secretary-treasurer not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by March 1 of each year, but any license thus suspended may be restored by the board upon the payment to the secretary-treasurer of a reinstatement fee of $50.00 within one (1) year after the suspension.

Section 8. KRS 313.305 is amended to read as follows:

(1) By December 31 of each year, every dental hygienist licensed to practice in this state shall return to the secretary-treasurer of the board, evidence satisfactory to the board that such dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. ***Continuing dental hygienist education shall include completion of the course described in Section 3(1) of this Act.*** In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for such hardship or other extenuating circumstances as the board deems appropriate. The board shall, upon the granting of such an exemption, state in the minutes of that meeting the name of the person requesting an exemption and the reasons given.

(2) By March 1 of each year, every dental hygienist licensed to practice in this state shall return to the secretary-treasurer of the board his renewal notice properly signed and a fee of ten dollars ($10) or an amount as hereinafter prescribed by the board. The dental hygienist shall thereupon receive a license renewal certificate provided that he has also complied with the requirements of subsection (1) of this section. The board may fix the annual renewal license fee at such amount, not less than ten dollars ($10) nor more than twenty dollars ($20), as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each year shall be set annually by the board. Notice of such change in the amount of license renewal fee shall be given to each dental hygienist registered in the state by the secretary-treasurer not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by March 1 of each year, but any license thus suspended may be restored by the board upon the payment to the secretary-treasurer of a reinstatement fee of twenty-five dollars ($25) within one (1) year after the suspension.

Section 9. KRS 314.073 is amended to read as follows:

(1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document the completion of continuing education requirements not to exceed thirty (30) contact hours in a given licensure period as prescribed in regulations promulgated by the board. A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.

(2) Contact hours required to satisfy the continuing education requirement shall be completed and reported in accordance with board requirements set forth by regulation.

(3) Providers of continuing education shall be approved by the board. Only continuing education activities approved by the board shall satisfy continuing education requirements stated in this section.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall maintain continuing education records and it shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing education requirements.

(6) ***The continuing education shall include the completion of the course described in Section 3(1) of this Act.***

(7) In order to offset administrative costs incurred in the implementation of the mandatory continuing education requirements, the board may charge reasonable fees as established by regulation.

Section 10. KRS 315.065 is amended to read as follows:

(1) Because of the continuous introduction of new therapeutic and diagnostic agents and changing concepts in the practice of pharmacy, it is essential that a pharmacist undertake a program of continuing education to maintain his professional competency to practice in the public interest.

(2) Effective January 1, 1983, no pharmacist's license shall be renewed until the license holder has submitted proof to the board that he has satisfactorily completed, in the previous year, a continuing education program acceptable to the board. Such continuing education requirements shall be determined by regulation of the board ***provided the course described in Section 3(1) is included,*** but they shall not exceed fifteen (15) hours per year.

(3) The board shall adopt rules and regulations to carry out the provisions of this section, to include guidelines and criteria for reviewing and approving continuing education programs.

Section 11. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than seventy-five dollars ($75). Not later than February 15 of each year the secretary-treasurer shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the optometrist shall furnish the information required by such form. As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. ***The annual courses of study shall include the course described in Section 3(1) of this Act.*** The length of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year. For the year 1986 and each year thereafter, those optometrists who are certified to prescribe therapeutic pharmaceutical agents shall have an additional two (2) credit hours of continuing education in ocular therapy each year, making a total of ten (10) credit hours required for license renewal. Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within the state. The board shall waive the continuing education requirement in cases of illness or undue hardship.

(2) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Section 12. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy and be a graduate of an accredited school of physical therapy approved by the board. No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.

(2) Any person who possesses the aforementioned qualifications and who desires to apply for licensure as a physical therapist in Kentucky shall make written application therefor to the board, on forms to be provided by the board, which shall be accompanied by an application fee determined by the board but not to exceed two hundred fifty dollars ($250), no part of which shall be returned. A licensure applicant shall successfully complete a board-approved examination.

(3) If it appears from said application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, such applicant shall be admitted to the next scheduled examination and tested in such subjects as the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at such time and place as the board shall determine.

(5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by regulation, permit applicants to take the examination more than once.

(8) Beginning January 31, 1985, all licenses shall be renewed biennially , upon payment on or before March 31 of each uneven numbered year of a renewal fee to be fixed by the board in an amount not to exceed one hundred dollars ($100). ***Any licensed person seeking renewal shall include proof of the completion of the course described in Section 3(1) of this Act on the form provided by the cabinet.***

(9) Licenses which are not renewed by March 31 of each uneven numbered year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days; or

(d) The practice of chiropractic as defined in KRS 312.015(3).

Section 13. KRS 333.190 is amended to read as follows:

A medical laboratory license may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:

(1) Making false statements on an application for medical laboratory license or any other documents required by the cabinet.

(2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports.

(3) Demonstrating incompetence or making frequent errors in the performance or reporting of medical laboratory examinations and procedures.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Reporting the results determined on a specimen by a medical laboratory which has not been licensed or exempted under this chapter.

(6) Rendering a report on medical laboratory work actually performed in another medical laboratory without designating the name of the director and the name and address of the medical laboratory in which the test was performed.

(7) Knowingly having professional connection with or knowingly lending the use of the name of the licensed medical laboratory or its director to an unlicensed medical laboratory.

(8) Violating or aiding and abetting in the violation of any provision of this chapter or the rules or regulations promulgated hereunder.

(9) Failing to submit to the cabinet any report required by the provisions of this chapter or the reasonable rules and regulations promulgated hereunder.

(10) Failure of medical laboratory personnel, trainees, assistants or other individuals employed by a medical laboratory, to complete the course specified in Section 3(1) of this Act on an annual basis.

Section 14. KRS 335.150 is amended to read as follows:

(1) The board may hear grievances of persons whose applications for a license have been denied.

(2) The board may deny, revoke, or suspend any license upon proof that the person has willfully or repeatedly violated any of the provisions of KRS 335.010 to 335.160 and 335.990***, or has failed to comply with the requirements in Section 3(1) of this Act*** or any rule or regulation promulgated by the board. ***The course described in Section 3(1) shall be completed annually and may be a part of any continuing education course.***

(3) The board shall not suspend, revoke or refuse to renew a license except after a hearing held before the board upon notice to the person charged.

(4) The notice shall be in writing, shall state the nature of the charges, the time and place of the hearing, and shall be served on the person charged by certified mail not less than thirty (30) days prior to the date of the hearing.

(5) The person charged may appear in person or by counsel, may testify and may produce evidence and witnesses on his own behalf, may cross-examine witnesses, and shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(6) The board, or its duly authorized representative on its behalf, shall have authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths. The board may invoke the aid of the Circuit Court for the county in which the hearing is held to enforce compliance with its subpoenas.

(7) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(8) At all hearings before the board the attorney general of the Commonwealth, or one of his assistants designated by him shall appear and represent the board.

(9) The decision of the board shall be by majority vote thereof.

(10) A copy of the board's order shall be sent by certified mail to the person charged at his last known address.

(11) The board may grant a rehearing when new and material evidence is offered for its consideration.

(12) Any person aggrieved by a final order of the board may within thirty (30) days of the entry of the order, appeal to the Circuit Court for the county in which he resides. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court. An appeal may be taken from the judgment of the Circuit Court on any such appeal to the Court of Appeals in accordance with the rules of civil procedure.

SECTION 15. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) As of July 1, 1991, the cabinet shall require as a condition of granting a license under the chapters specified in Sections 4 through 14 of this Act that an applicant making initial application for licensure complete an educational course approved by the cabinet on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. An applicant who has not taken a course at the time of licensure shall upon an affidavit showing good cause be allowed six (6) months to complete this requirement.

(2) The cabinet shall have the authority to adopt regulations to carry out the provisions of this section.

(3) The cabinet shall report to the General Assembly by March 1 of each year, as to the implementation and compliance with the requirements of this section.

Section 16. KRS 311.571 is amended to read as follows:

(1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read and write the English language;

(b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;

(d) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration and approved by the board;

(e) Has successfully completed, in a single sitting, an examination prescribed by the board; [~~and~~]

(f) ***Has complied with the requirements of Section 15(1) of this Act; and***

(g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read and write the English language;

(b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;

(d) Has successfully completed, in a single sitting, an examination prescribed by the board;

(e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;

(f) Has satisfactorily completed at least three (3) full years of prescribed courses of postgraduate training approved by the board; [~~and~~]

(g) ***Has complied with the requirements of Section 15(1) of this Act; and***

(h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:

(a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or

(b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and ***(h)***[~~(g)~~] of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; [~~and~~]

(c) ***Has complied with the requirements of Section 15(1) of this Act; and***

(d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.

(4) The board may grant an applicant a limited license-institutional practice for an unrenewable period of one (1) year if the applicant:

(a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e) and ***(h)***[~~(g)~~] of subsection (2) of this section;

(b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)***(d)***[~~(c)~~] of this section; [~~and~~]

(c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board***; and***

(d) Has complied with the requirements of Section 15(1) of this Act.

(5) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain licensure in the Commonwealth without further testing and training if the applicant:

(a) Has been endorsed in writing by the applicant's original licensing state as being currently licensed in good standing in that state; and

(b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.

(6) No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.

(7) Notwithstanding any of the requirements for licensure established by subsections (1) to (6) of this section, the board may deny licensure to an applicant without a prior hearing upon a finding that the applicant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice, *if* [~~provided that~~] upon request an applicant shall be accorded an opportunity to show cause why he should not be denied licensure.

(8) Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.

Section 17. KRS 312.085 is amended to read as follows:

(1) Any persons desiring to practice chiropractic in this state, shall make application to the board, through its executive secretary, in *the* [~~such~~] form and in *the* [~~such~~] manner [~~as may be~~] required by the board, at least thirty (30) days prior to any meeting held for examinations by the board. Each applicant shall have satisfactorily completed*:*

(a) Not less than sixty (60) semester credit hours of study from a college or university accredited by the southern association of colleges and universities or an accrediting agency recognized by the southern association of colleges and universities or any successor to the powers of either and is a graduate of an accredited chiropractic college accredited by the council on chiropractic education or their successors, and which maintains a standard and reputability approved by the board*; and*

(b) The requirements of Section 15(1) of this Act.

(2) The board may by regulation recommend a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.

(3) Applications shall be made and signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational advantages, his experience in matters pertaining to knowledge of the care of the sick, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation.

Section 18. KRS 313.040 is amended to read as follows:

(1) An applicant for a license to practice dentistry shall be of good moral character and at least eighteen (18) years of age at the time of making the application. The application shall be accompanied by evidence satisfactory to the board that the applicant*:*

(a) Has completed the requirements of Section 15(1) of this Act; and

(b) Is a graduate of and has a diploma from a reputable dental college, school or department of a reputable university, rated as acceptable by the board.

The board shall rate dental colleges, schools or departments of a university, or accept the ratings issued by accredited bodies approved by it. The application shall be made to the board in writing. It shall be accompanied by an examination fee of fifty dollars ($50), payable to the secretary-treasurer.

(2) No person shall file, or attempt to file as his own the diploma or license of another, or a forged affidavit of identification or qualification.

Section 19. KRS 313.290 is amended to read as follows:

Any person of good moral character over eighteen (18) years of age who is a graduate of an accredited high school or the equivalent, [~~and~~] has successfully completed a training program in a school of dental hygiene that is accredited by the council on dental education of the american dental association and approved by the board ***and has fulfilled the requirements of Section 15(1) of this Act***, shall be eligible to take the examination for the practice of dental hygiene.

Section 20. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed at least an approved four (4) year high school course of study or the equivalent thereof; [~~and~~] has completed the basic curriculum for preparing registered nurses in an approved school of nursing and holds a diploma therefrom***; and has fulfilled the requirements of Section 15(1) of this Act***.

(2) An applicant shall be required to pass a written examination in such subjects as the board may prescribe. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination ***shall*** [~~must~~] be received by the board at such time as prescribed by regulation by the board. Upon successfully passing ***the*** [~~such~~] examination, the board shall issue to the applicant a license to practice nursing as a registered nurse.

(3) The board shall meet for the purpose of conducting examinations of applicants for licensure as registered nurses at least once a year, at a time and place determined by the board. Notices of ***the*** [~~such~~] examinations shall be published in two (2) newspapers with statewide circulation. Notices shall be sent by mail to every applicant after applications are received, and to every approved school of nursing in this state at least sixty (60) days prior to the examination.

(4) The board may issue a license to practice nursing as a registered nurse to an applicant who has passed the state board test pool exam or an equivalent examination approved by the board and been licensed as a registered nurse under the laws of another state, territory or foreign country, if in the opinion of the board the applicant is qualified to practice professional nursing in this state.

(5) The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(6) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume ***the*** [~~such~~] title or use ***the*** [~~such~~] abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted [~~such~~] inactive status by the board in accordance with regulations promulgated by the board. [~~Such~~] Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and ***shall*** [~~must~~] complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(8) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed ***the*** [~~such~~] license to lapse by failure to renew may apply for reinstatement of ***the*** [~~such~~] license under the provisions of this chapter.

(9) A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 21. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed an organized post-basic program of study and clinical experience acceptable to the board; ***has fulfilled the requirements of Section 15(1) of this Act;*** and is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced nursing practice.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner or such other designation as determined by the board.

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume such title or use ***the*** [~~such~~] abbreviation or any other words, letters, signs or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed ***the*** [~~such~~] registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board.

Section 22. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant is in good physical and mental health*,* [~~and~~] has completed at least an approved four (4) year high school course of study or its equivalent, ***has fulfilled the requirements of Section 15(1) of this Act*** and has completed the required educational program in practical nursing at an approved school of nursing and holds a diploma or certificate therefrom.

(2) The board shall meet for the purpose of conducting examinations of applicants for licensure as licensed practical nurses at least once a year, at a time and place determined by the board. Notices of ***the*** [~~such~~] examinations shall be published in two (2) newspapers with statewide circulation. Notices shall be sent by mail to every applicant after applications are received, and to every approved school of practical nursing in this state at least sixty (60) days prior to the examination.

(3) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(4) An applicant shall be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination ***shall*** [~~must~~] be received by the board at ***the*** [~~such~~] time as prescribed by regulation by the board. Upon successfully passing ***the*** [~~such~~] examination the board shall issue to the applicant a license to practice as a licensed practical nurse.

(5) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the state board test pool exam or an equivalent examination approved by the board and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(6) Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume ***the*** [~~such~~] title or use ***the*** [~~such~~] abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted [~~such~~] inactive status by the board in accordance with regulations promulgated by the board. [~~Such~~] Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and ***shall*** [~~must~~] complete the requirements as established in this chapter and by regulation of the board.

(8) Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed ***the*** [~~such~~] license to lapse by failure to renew may apply for reinstatement of ***the*** [~~such~~] license under the provisions of this chapter.

(9) A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 23. KRS 315.050 is amended to read as follows:

(1) Every applicant for licensure as a pharmacist shall be not less than eighteen (18) years of age, a citizen of the United States, of good mental health and moral character, a graduate of a school or college of pharmacy approved by the board, ***shall have fulfilled the requirements of Section 15(1) of this Act,*** and shall file proof satisfactory to the board, substantiated by proper affidavits, of completion of an internship, under the supervision of a pharmacist, which shall include the selling of drugs and medical supplies, compounding prescriptions, preparing pharmaceutical preparations and keeping records and making reports required by the state and federal statutes.

(2) After ***the*** [~~such~~] applicant has passed a satisfactory examination conducted before the board under regulations prescribed by the board, he shall be entitled to a license as a pharmacist.

(3) The examination for licensure shall be given by the board at least two (2) times during each year. The examination shall be prepared to measure the competency of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed such an examination.

(4) The board shall by regulation establish standards for qualifying internship and shall determine appropriate qualifications for pharmacists supervising approved internship programs.

(5) The board shall issue certificates of internship which shall be valid for four (4) years from date of issuance. The fee for a certificate shall be set by the board.

Section 24. KRS 320.250 is amended to read as follows:

(1) Licenses to engage in the practice of optometry shall be issued only to those who qualify therefor under the provisions of KRS 320.260 or 320.270, or who successfully pass examinations conducted under the direction of the board at a time and place fixed by the board. ***Each applicant shall comply with the provisions of Section 15(1) of this Act.*** Each license certificate shall be signed by the president and secretary-treasurer and authenticated by the seal of the board.

(2) The examination shall consist of a written and clinical or practical examination and shall relate to the skills needed for the practice of optometry in this Commonwealth at the time of the examination and shall seek to determine the applicant's preparedness to exercise such skills. In regard to the written examination, the examining board, at its discretion, may:

(a) Prepare, administer and grade the examination;

(b) Approve and administer a standardized examination prepared and graded by or under the direction of the National Board of Examiners in Optometry or any other organization approved by the board as qualified to prepare such an examination;

(c) Accept the scores of the applicant from an examination prepared, administered and graded by the National Board of Examiners in Optometry or any other organization approved by the board as qualified to administer the examination.

(3) The applicant, except those granted licenses under the provisions of KRS 320.260 or 320.270, shall successfully pass both the written and clinical or practical portions of the examination.

(4) Any person seeking a license to practice optometry pursuant to the provisions of this section shall submit an application to the board on forms furnished by the board. The applicant shall show proof of the following:

(a) The applicant is not less than eighteen (18) years of age;

(b) The applicant is a graduate of a school or college of optometry accredited by a regional or professional accreditation organization which is recognized or approved by the council on post-secondary accreditation, or by the United States department of education, and which is in good standing, as determined by the board. All applicants shall have transcript credit of at least six (6) semester hours in a course or courses in general and ocular pharmacology with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye;

(c) All other information requested by the board as is set out on the application.

(5) The fee for each examination shall not exceed one hundred dollars ($100) for resident applicants and two hundred dollars ($200) for nonresident applicants.

(6) No person shall be allowed to take the examination more than three (3) times within the period of any five (5) consecutive years.

Section 25. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy*,* [~~and~~] be a graduate of an accredited school of physical therapy approved by the board ***and shall have fulfilled the requirements of Section 15(1) of this Act***. No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.

(2) Any person who possesses the aforementioned qualifications and who desires to apply for licensure as a physical therapist in Kentucky shall make written application therefor to the board, on forms to be provided by the board, which shall be accompanied by an application fee determined by the board but not to exceed two hundred fifty dollars ($250), no part of which shall be returned. A licensure applicant shall successfully complete a board-approved examination.

(3) If it appears from said application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, ***the*** [~~such~~] applicant shall be admitted to the next scheduled examination and tested in ***the*** [~~such~~] subjects [~~as~~] the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at such time and place as the board shall determine.

(5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by regulation, permit applicants to take the examination more than once.

(8) Beginning January 31, 1985, all licenses shall be renewed biennially, upon payment on or before March 31 of each uneven numbered year of a renewal fee to be fixed by the board in an amount not to exceed one hundred dollars ($100).

(9) Licenses which are not renewed by March 31 of each uneven numbered year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days; or

(d) The practice of chiropractic as defined in KRS 312.015(3).

Section 26. KRS 333.100 is amended to read as follows:

The cabinet may prescribe minimal qualifications for medical laboratory personnel including, but not limited to, microbiology, serology, chemistry, hematology, immunohematology, biophysics, cytology, or pathology. ***In addition, laboratory personnel, trainees, assistants or other individuals employed by a medical laboratory shall fulfill the requirements of Section 15(1) of this Act.***

Section 27. KRS 335.080 is amended to read as follows:

(1) The board shall issue a license as "certified social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee fixed by the board;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding six months failed to pass an examination given by the board; [~~and~~]

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars ($30)***; and***

(h) Has complied with Section 15(1) of this Act.

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

Section 28. KRS 335.090 is amended to read as follows:

(1) The board shall issue a license as "social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a baccalaureate degree in a social work or social welfare program approved by the board; or a baccalaureate degree in another field, two years experience in a social work capacity and completion of courses equivalent to a social work or social welfare program approved by the board;

(d) Has paid to the board an examination fee fixed by the board;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding six months failed to pass an examination given by the board; [~~and~~]

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars ($30)***; and***

(h) Has complied with Section 15(1) of this Act.

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

Section 29. KRS 335.100 is amended to read as follows:

(1) After one (1) year from June 21, 1974, no person shall engage in the independent practice of social work unless he meets the following requirements:

(a) Is licensed under KRS 335.010 to 335.160 and 335.990 as a certified social worker;

(b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in independent practice, the experience having been acquired under appropriate supervision.

(c) Has paid to the board an examination fee fixed by the board;

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceding six (6) months failed to pass an examination given by the board***;***

(f) Has complied with Section 15(1) of this Act.

(2) The board shall issue a certificate of qualification for independent practice stating area or areas of specialty certification. This certificate shall be displayed with the license in the licensee's principal place of practice.

(3) Areas of specialty certification shall include "clinical social work" and others as defined by the board. Any use of the titles of specialty certification ***shall be*** [~~are~~] restricted to persons so qualified under KRS 335.100.

SECTION 30. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The boards of the professions in Sections 4 to 14 and 16 to 29 of this Act and the Cabinet for Human Resources shall begin planning for the implementation of the sections of this Act which require, as a part of initial licensure, applicants for certain specified professions to complete an educational course on the transmission, control, treatment, and prevention of human immunodeficiency virus and acquired immunodeficiency syndrome. The planning shall include collecting information from the facilities and programs which educate and train the licensed professionals affected by the licensure requirements of this Act and shall also include developing administrative regulations for the implementation of the licensure requirements.

(2) The Cabinet for Human Resources shall develop instructional material on the human immunodeficiency virus, including information related to methods of transmission, education, and infection control. The materials developed under this section shall be provided to persons licensed under KRS Chapters 317 and 317A. Costs of production and distribution of the instructional materials shall be wholly assumed from the fees assessed by the licensing boards which regulate the professionals who are provided with educational materials under this section. To expeditiously and economically develop, produce, and distribute the instructional material required under this section, the Cabinet for Human Resources shall consult with the professional associations of professions to determine whether suitable instructional materials already exist that may be lawfully reproduced or reprinted.

(3) The Cabinet for Human Resources shall require that, by July 1, 1992, all employees of health facilities defined in KRS 216B.015 shall have completed an educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change except for those employees who shall have completed such a course as required for their professional licensure or upon evidence that the employee received such a course from another health facility where the employee was previously employed.

(4) Information on the human immunodeficiency virus infection shall be presented to any person who receives treatment at any hospital, however named, skilled nursing facilities, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, and emergency care centers licensed pursuant to KRS Chapter 216B. The information shall include, but not be limited to, methods of transmission and prevention and appropriate behavior and attitude change.

Section 31. KRS 18A.030 is amended to read as follows:

(1) The commissioner shall be the executive and administrative head of the department and shall supervise and control all examinations and work of the department. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the commissioner shall appoint and supervise ***the*** [~~such~~] staff [~~as may be~~] needed in the department to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, [~~it shall be the duty of~~] the commissioner ***shall***, with the aid of his staff [~~to~~]:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

(d) Appoint ***the*** [~~such~~] examiners and technicians [~~as are~~] necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make ***the*** [~~such~~] data and the class specifications for all positions available to the press and public;

(f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

(i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for herein;

(k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(l) Make a report and submit the same to the board, the Legislative Research Commission and the Governor not later than October first of each year;

(m) Discharge ***the*** [~~such~~] other duties [~~as are~~] imposed upon him by KRS 18A.005 to 18A.200. [;]

(3)[~~(n)~~] The commissioner on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The commissioner shall [~~; and~~

~~(o)~~] keep records relative to employee turnover and report to the board, the Governor and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division and section. If any cabinet, department, bureau, division or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the commissioner shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor and the Legislative Research Commission.

(5) The commissioner shall provide to each new state employee and to each state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Human Resources and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures and referral services.

SECTION 32. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) The Justice Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for Human Resources on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, non-receipt of allowance does not exclude a law enforcement officer from the training required in this section.

(2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he shall be suspended from further service as an officer until he successfully completes the required training.

SECTION 33. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) The Corrections Cabinet shall develop an educational course on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Human Resources of not more than four (4) hours for the instruction of corrections personnel who have day to day contact with incarcerated persons and personnel who may be expected to respond to crisis situations. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. The training may be part of any continuing education program.

(2) All persons referred to in subsection (1) of this section shall successfully complete the training required. Any person holding the position referred to in subsection (1) of this section shall not fill that position for more than one (1) year without successful completion of the required training. If the persons do not successfully complete the required training within the time specified, he shall be suspended from further service until he successfully completes the required training.

Section 34. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the cabinet shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. ***The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Human Resources.*** A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the cabinet concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the governmental services center at Kentucky State University, by knowledgeable persons who have sufficient experience, training and education in jail operations. The corrections cabinet shall not charge a fee for training jailers, their deputies or jailers-elect.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to said office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete such training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 35. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the department of criminal justice training or other courses approved by the justice cabinet after having completed the basic training course the first year of employment. ***The training course shall include material developed by the cabinet and approved by the Cabinet for Human Resources on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.***

SECTION 36. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) The Corrections Cabinet, in conjunction with the Cabinet for Human Resources, shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immunodeficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include

emphasis on behavior and attitude change. The education program shall be continuously updated to reflect the latest medical information available.

(2) If there is evidence that an inmate, while in the custody of the cabinet, has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder, the cabinet shall begin a testing program which is consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority and shall target persons who have been involved in or reasonably thought to have been involved in a high risk behavior. For purposes of this subsection, "high-risk behavior" includes:

(a) Sexual contact with any person within the institution;

(b) The use of intravenous drugs;

(c) Tattooing; and

(d) Any other activity medically known to transmit the virus.

(4) The results of the tests shall become a part of that inmate's medical file, accessible only to persons designated by agency administrative regulations.

(5) The cabinet shall establish policies consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority on the housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(6) The cabinet shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

(7) If an inmate is involved in a situation with a cabinet employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

SECTION 37. A NEW SECTION OF KRS CHAPTER 71 IS CREATED TO READ AS FOLLOWS:

(1) Each county and each municipal detention facility shall have a written procedure developed, in consultation with the facility medical provider, establishing conditions under which an inmate will be tested for infectious disease. The procedure shall be consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority. The person receiving the test results may divulge the test results to the jailer or chief correctional officer. However, all other provisions of the Kentucky Sexually Transmitted Disease Control Confidentiality Act in KRS 214.400 to 214.420 shall remain in effect.

(2) Serologic blood test results obtained pursuant to subsection (1) of this section shall be confidential except they may be shared with employees or officers of the jailer or chief correctional officer who are responsible for the custody and care of the affected inmate and have a need to know the information. No person to whom the results of a test have been disclosed under this section may disclose the test results to another person not authorized under this section.

(3) The results of any serologic blood test on an inmate shall become a part of that inmate's permanent medical file. Upon transfer of the inmate to any other correctional facility, the file shall be transferred in an envelope marked confidential.

SECTION 38. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) State colleges and universities shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state college or university shall inform students of the name and telephone number of a college or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 39. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet

the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in [~~such~~] federal legislation. [~~; provided, however, that~~] When [~~such~~] federal legislation requires additional representation on any [~~such~~] "single state agency," the Council on Higher Education shall establish such advisory groups as may be necessary to satisfy [~~such~~] federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the Finance and Administration Cabinet and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Monitor and report on compliance with Section 38 of this Act. The report shall be transmitted to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee.

SECTION 40. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests, is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(f) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health care services, there is no requirement that a health care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Refering the patient to another appropriate professional or health care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person, who has obtained or has knowledge of a test result pursuant to this section, shall disclose

or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Human Resources shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312 or 313 to register with the cabinet if he does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and Section 57 of this Act, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop a program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

SECTION 41. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Every donation of organs, skins, or other human tissue for transplantation to another shall be tested by the receiving facility prior to use for human immunodeficiency virus infection and other communicable diseases specified by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America. Tests for the human immunodeficiency virus infection shall be performed only after obtaining written, informed consent from the potential donor or the donor's legal representative. Obtaining consent shall include a fair explanation of the procedures to be followed and the meaning and use of the test results. The explanation shall include a description of the confidential nature of the test as described in Section 40 of this Act. If consent for testing is not given, the person shall not be accepted as a donor.

(2) Notwithstanding the provisions of subsection (1) of this section, written informed consent to perform testing shall not be required if the organ, skin, or other human tissue is received for processing or testing from out-of-state or if tissue is received from a health care facility or health care provider for reference testing or processing and the results of the test are reported back to the facility or provider.

(3) No person shall collect any organ, skin, or other human tissue from one (1) human being and hold it for, or actually perform, any implantation, transplantation, grafting, or any other method of transfer to another human being without first testing the tissue for the human immunodeficiency virus and other communicable diseases specified by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America, or without performing another process approved by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America capable of killing the causative agent of those diseases.

(4) All human organs, skin, or other human tissue which is to be transplanted to another and is found positive for human immunodeficiency virus or other communicable disease specified by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America shall be rendered noncommunicable by the person holding the tissue or shall be destroyed, unless the human tissue is specifically labeled to identify the human immunodeficiency virus and:

(a) Is used for research purposes; or

(b) Is used to save the life of another and is transferred with the recipient's informed consent.

(5) Each person who receives for transplantation organs, skin, or other human tissue, who finds evidence after confirmatory testing of human immunodeficiency virus in the donor, shall notify the donor or legal representative if the donor is a patient of the health facility or shall notify the facility where the donor is the patient of the presence of the virus. If the donor is a patient of a health facility within the Commonwealth, the following information shall be given:

(a) The meaning of the test results;

(b) Measures for the prevention of the transmission of the human immunodeficiency virus;

(c) The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;

(d) The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus; and

(e) The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (d) of this subsection.

(6) The donor shall be notified of the confirmed positive test results in person. Persons shall be notified of negative test results either in person, by registered mail, or by phone. Notification is the responsibility of the facility receiving skin, organs, or other donated tissue. Notification shall be the responsibility of the receiving facility.

(7) Prior to the transplant of an organ or artificial insemination, the institution or physician responsible for overseeing the procedure shall provide the prospective recipient information as to the risks of contracting human immunodeficiency virus.

Section 42. KRS 367.175 is amended to read as follows:

(1) Every contract, combination in the form of trust and otherwise, or conspiracy, in restraint of trade or commerce in this Commonwealth shall be unlawful.

(2) It shall be unlawful for any person or persons to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce in this Commonwealth.

(3) The sale, delivery, holding, or offering for sale of any self-testing kits designed to tell persons their status concerning human immunodeficiency virus or acquired immunodeficiency syndrome or related disorders, and any advertising of such kits, shall be prohibited.

(4) In addition to any other penalties, violations of this section shall also be a Class C felony.

Section 43. KRS 214.410 is amended to read as follows:

(1) "Cabinet" means the Cabinet for Human Resources; and

(2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, non-gonococcal urethritis, mucopurulent cervicitis, acquired ***immunodeficiency*** [~~immune deficiency~~] syndrome (AIDS), ***human immunodeficiency virus (HIV) infection,*** chlamydia trachomatis infections and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.

Section 44. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the rules and regulations adopted by the secretary of the Cabinet for Human Resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(a)[~~(1)~~] Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control of the United States Public Health Service. The cabinet shall require reporting of cases of human immunodeficiency virus infection by July 1, 1990, but shall be prohibited from requiring the reporting of or collection of names and addresses. However, a code may be used, so long as in and of itself, it would not identify the patient. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient.

(c)[~~(2)~~] The control of insects, rodents and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval or disapproval of plans for construction, modification or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d)[~~(3)~~] The construction, installation and alteration of any on-site sewage disposal system except for a system with a surface discharge;

(e)[~~(4)~~] Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(f)[~~(5)~~] The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(g)[~~(6)~~] Protection and improvement of the health of the people through better nutrition.[~~;~~]

(2)[~~(7)~~] The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20.00) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers and distributors of consumer products as defined in the Federal Consumer Product Safety Act, [~~(~~]Title 15 U.S.C. Sec. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto[~~)~~], and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the state treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of *the* [~~said~~] account shall lapse to the general fund at the end of each biennium.

SECTION 45. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "sexually transmitted diseases for which a treatment exists to render them noninfectious" means syphilis, gonorrhea, chancroid, granuloma inguinale, nongonococcal urethritis, mucopurulent cervicitis and Chlamydia trachomatis infections including lymphogranuloma venereum.

(2) Any person infected with or reasonably suspected of being infected with a sexually transmitted disease shall undergo any medical examination as is necessary, including such laboratory testing procedures deemed advisable by the examining physician to reasonably determine the existence or nonexistance of the diagnosed or suspected sexually transmitted disease. If such person is determined to be infected with a sexually transmitted disease or there is the potential that the person is incubating the disease, he shall undergo such treatment or follow-up as may be determined adequate by the examining physician to render the person noninfectious or to prevent the onset of disease. This section shall apply only to sexually transmitted diseases as defined by subsection (1) of this section.

(3) Only authorized personnel of the Cabinet for Human Resources and local health departments assigned to sexually transmitted disease control activities are empowered to carry out the prevention and control provisions set forth in this section. Their duties shall include, among other things, the investigation of persons known to be or reasonably suspected of being infected with a sexually transmitted disease. Such authorized personnel are empowered to direct that medical examinations, including laboratory tests, be conducted of persons reasonably suspected of having a sexually transmitted disease. This section shall apply only to sexually transmitted diseases as defined by subsection (1) of this section.

(4) The cabinet may petition a District Court for an order to apprehend, examine, or treat a person with a sexually transmitted disease as defined in subsection (1) of this section. The cabinet shall show by clear and convincing evidence that a threat to the public's health and welfare exists unless the warrant is issued and shall show that all other reasonable means of obtaining compliance have been exhausted and that no other less restrictive alternative is available.

(5) No order requiring a person to be examined or treated for a sexually transmitted disease shall be issued unless:

(a) A hearing has been held of which the person has received at least seventy-two (72) hours prior written notification and unless the person has received a list of the proposed actions to be taken and the reasons for each one from the Department of Public Advocacy.

(b) The person has the right to attend the hearing, to cross-examine witnesses, and to present evidence.

(c) The person has a right to an attorney to represent him, and to have an attorney appointed on his behalf if he cannot afford one from the Department of Public Advocacy.

(6) In issuing an order requiring a person to be examined or treated, the court may, at the request of the cabinet and upon a showing of good cause, also order the person to participate in a designated education or counseling program, or appear before the cabinet at regular intervals for periodic retesting, or both, as the court determines appropriate based on the person's actions, statements, and risk to the public.

SECTION 46. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) When requesting an order from a District Court under the provisions of Section 45 of this Act, the cabinet shall substitute a pseudonym for the true name of the person to whom the order pertains. The actual name of the person shall be revealed to the court only in camera, and the court shall seal the name from further revelation.

(2) All court decisions, orders, petitions, and other formal documents shall be styled in a manner to protect the name of the party from public revelation.

(3) The cabinet and its authorized representatives, the court, and other parties to the lawsuit shall not reveal the name of any person subject to these proceedings except as permitted in KRS 214.420.

(4) All notices required to be given, all petitions and warrants, and all processes issued and all orders entered pursuant to Section 45 of this Act shall be served by a peace officer of the county in which the person alleged to be infected with a sexually transmitted disease resides or is found.

(5) The judge, in his order for hospitalization or placement in another health care or residential facility under Section 45 of this Act, shall direct a peace officer of the county in which the person resides or is found to take the person into his custody and immediately deliver him to the director of the facility named in the order.

(6) The cabinet shall develop in conjunction with the Administrative Office of the Courts and furnish to the District Court all forms necessary under Section 50 of this Act, and the court shall use the forms it determines appropriate.

(7) Any person who is aggrieved by the entry of an order under Section 45 of this Act shall have the period of time provided by the Rules of Appellate Procedures within which to appeal the order. Every order entered under the terms of Section 45 of this Act shall be executed immediately unless the court entering the order or the appellate court, in its discretion, enters a supersedeas order and fixes the terms and conditions thereof.

(8) Any person who is examined, treated, hospitalized or placed in emergency hold as a result of an order entered under Section 45 of this Act may at any time petition the District Court for immediate release and termination of the order.

(9) Any person petitioning a court for immediate release and termination of the order entered under authority of Section 45 of this Act shall show that the original order was issued by mistake or fraud; or

(a) That there has been a substantial change in the original facts and circumstances upon which the order was issued; or

(b) That he no longer poses an immediate and substantial threat to the health and welfare of the public.

(10) When considering a petition for immediate release, and prior to making any release, the court shall consult the cabinet and the patient's physician, if any, concerning the patient's medical condition and any other related factors that may affect the present and future danger to the public that may be caused by the patient's release.

(11) When granting a petition for immediate release, the court shall impose those conditions it believes reasonably necessary to protect the public from infection with a sexually transmitted disease.

(12) Persons who have been hospitalized, placed in another health care or residential facility, or isolated in their residences shall be granted a short term temporary leave at the discretion of the cabinet or its authorized representatives if the cabinet determines that the temporary leave will be closely monitored and will not endanger the public health. Temporary leave shall be granted for therapeutic purposes, in the event of death or critical illness in the person's family, or for another emergency. When granting the temporary leave, the cabinet shall consider whether the behavior for which the person was detained has a likelihood of reoccuring and whether the person will voluntarily return to detention at the end of the temporary leave.

SECTION 47. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) If the defendant is able to pay, he shall pay all fees and costs associated with this action.

(2) If the defendant is found by the court to be indigent, all fees and costs shall be waived and defendant shall be represented by an attorney from, or under contract to the Department of Public Advocacy.

SECTION 48. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The cabinet, on an annual basis, shall estimate the potential impact of acquired immunodeficiency syndrome and human immunodeficiency virus infection on total state spending for health.

SECTION 49. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for the disclosure of otherwise confidential information under the following circumstances:

(a) If a patient of the physician has tested positive for human immunodeficiency virus discloses to the physician the identity of a spouse or sexual partner with whom the patient has cohabitated for more than one (1) year; and

(b) The physician recommends the patient notify the spouse or sexual partner of the positive test and

refrain from engaging in sexual activity in a manner likely to transmit the virus and the patient refuses; and

(c) If pursuant to a perceived civil duty or the ethical guidelines of the profession, the physician reasonably and in good faith advises the spouse or sexual partner with whom the patient has cohabitated for more than one (1) year of the patient of the positive test and facts concerning the transmission of the virus.

(2) Notwithstanding the foregoing, a physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for failure to disclose information relating to a positive test result for human immunodeficiency virus of a patient to a spouse.

SECTION 50. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for human immunodeficiency virus infection under direction of the Cabinet for Human Resources and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for Human Resources to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.

(2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmitted disease and knew or had been informed that he had tested positive for a sexually transmitted disease pursuant to KRS 214.410 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(3) Any person who commits prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

SECTION 51. A NEW SECTION OF KRS CHAPTER 207 IS CREATED TO READ AS FOLLOWS:

(1) Any person with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus shall have every protection made available to handicapped persons under KRS 207.130 to 207.240 and Section 504, Public Law No. 93-112, the Rehabilitation Act of 1973.

(2) (a) No person may require an individual to take a human immunodeficiency virus related test as a condition of hiring, promotion, or continued employment, unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification for the job in question.

(b) A person who asserts that a bona fide occupational qualification exists for human immunodeficiency virus-related testing shall have the burden of proving that:

1. The human immunodeficiency virus-related test is necessary to ascertain whether an employee is currently able to perform in a reasonable manner the duties of the particular job or whether an employee will present a significant risk of transmitting human immunodeficiency virus infection to other persons in the course of normal work activities; and

2. There exists no means of reasonable accommodation short of requiring the test.

(3) (a) A person shall not discriminate against an otherwise qualified individual in housing, public accommodations, or governmental services on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus.

(b) A person or other entity receiving or benefiting from state financial assistance shall not discriminate against an otherwise qualified individual on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus.

(c) A person who asserts that an individual who is infected with human immunodeficiency virus is not otherwise qualified shall have the burden of proving that no reasonable accommodation can be made to prevent the liklihood that the individual will, under the circumstances involved, expose other individuals to a significant possibility of being infected with human immunodeficiency virus.

(d) No person shall fail or refuse to hire or discharge any individual, segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the fact that the individual is a licensed health care professional who treats or provides patient care to persons infected with human immunodeficiency virus.

SECTION 52. A NEW SECTION OF KRS CHAPTER 207 IS CREATED TO READ AS FOLLOWS:

(1) The fact that an occupant of real property is infected or has been infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome is not a material fact that shall be disclosed in a real estate transaction.

(2) No cause of action shall arise against an owner of real property or his agent, or any agent of a transferee of real property for the failure to disclose to the transferee that an occupant of that property was infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome.

SECTION 53. A NEW SECTION OF KRS CHAPTER 207 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a violation of Sections 51, 55, 56 or 57 of this Act shall have a right of action in District Court and may recover for each violation:

(a) Against any person who violates a provision of this section, liquidated damages of one thousand dollars ($1,000) or actual damages, whichever is greater.

(b) Against any person who intentionally or recklessly violates a provision of this section, liquidated damages of five thousand dollars ($5,000) or actual damages, whichever is greater.

(c) Reasonable attorney's fees.

(d) Such other relief, including an injunction, as the court shall deem appropriate.

(2) Nothing in this section limits the right of the person aggrieved by a violation of this section to recover damages or other relief under any other applicable law.

Section 54. KRS 207.140 is amended to read as follows:

(1) Nothing contained in KRS 207.130 to 207.240 shall be construed to prevent an employer from making any pre-employment inquiry about the existence of an applicant's handicap and about the extent to which that handicap has been overcome by treatment, medication, appliances, or other rehabilitation.

(2) Nothing contained in KRS 207.130 to 207.240 shall be construed to prohibit the rejection of an applicant for employment or housing on the basis of:

(a) A physical handicap which interferes with a person's ability to adequately perform assigned job duties; ***or***

(b) Any handicap which is not demonstrable by medically accepted clinical or laboratory diagnostic techniques, including, but not limited to, alcoholism, drug addiction, and obesity[~~; or~~

~~(c) Any communicable disease, either carried by, or afflicting the applicant~~].

Section 55. KRS 207.150 is amended to read as follows:

(1) No employer shall fail or refuse to hire, discharge or discriminate against any handicapped individual with respect to wages, rates of pay, hours, or other terms and conditions of employment because of ***the*** [~~such~~] person's physical handicap unless ***the*** [~~such~~] handicap restricts that individual's ability to engage in the particular job or occupation for which he or she is eligible, or unless otherwise provided by law ***or, on the basis of the results of a human immunodeficiency virus-related test, unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification of the job in question***; nor shall any employer limit, segregate or classify handicapped individuals in any way which would deprive or tend to deprive any handicapped individual of employment opportunities or otherwise affect employee status because of physical handicap, ***or on the basis of the results of a human immunodeficiency virus related test,*** unless ***the*** [~~such~~] handicap ***or absence of human immunodeficiency virus infection,*** constitutes a bona fide and necessary reason

for ***the*** [~~such~~] limitation, segregation or classification. This subsection shall not be construed to require any employer to modify his physical facilities or grounds in any way, or exercise a higher degree of caution for a handicapped individual than for any person who is not a handicapped individual.

(2) No employment agency, placement service, training school or center or labor organization shall fail or refuse to refer for employment or otherwise discriminate against individuals because of physical handicap.

Section 56. KRS 207.160 is amended to read as follows:

No labor organization shall exclude or expel from its membership, or otherwise discriminate against individuals because of physical handicap ***or on the basis of a human immunodeficiency virus related test***; nor shall a labor organization limit, segregate, or classify its membership, nor classify or fail or refuse to refer for employment any handicapped individual, in any way which would deprive or tend to deprive any handicapped individual of employment opportunities, or otherwise affect employee status or employment applicant status or as would adversely affect such person's wages, hours or conditions of employment, because of physical handicap ***or on the basis of a human immunodeficiency virus related test***.

SECTION 57. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in Kentucky on or after the effective date of this Act.

(2) This section shall not prohibit an insurer from contesting the validity of an insurance contract or whether a claim is covered under an insurance contract to the extent allowed by law.

(3) As used in this section:

(a) "Human immunodeficiency virus (HIV)" means the causative agent of acquired immunodeficiency syndrome (AIDS) or any other type of immunosuppression caused by the human immunodeficiency virus.

(b) "Insurance contract" means a contract issued by an insurer as defined in this section; and

(c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and health service corporation, a health maintenance organization, or a prepaid dental plan organization.

(4) (a) In the underwriting of an insurance contract regarding human immunodeficiency virus infection and health conditions derived from such infection, the insurer shall utilize medical tests which are reliable predictors of risk. Only a test which is recommended by the Centers for Disease Control or by the Food and Drug Administration is deemed to be reliable for the purposes of this section. If a specific Centers for Disease Control or Food and Drug Administration recommended test indicates the existence or possible existence of human immunodeficiency virus infection or a health condition related to the human immunodeficiency virus infection, before relying on a single test to deny issuance of an insurance contract, limit coverage under an insurance contract, or to establish the premium for an insurance contract, the insurer shall follow the applicable Centers for Disease Control or Food and Drug Administration recommended test protocol and shall utilize any applicable Centers for Disease Control or Food and Drug Administration recommended follow-up tests or series of tests to confirm the indication.

(b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the human immunodeficiency virus infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for Human Resources. The notification shall include:

1. Face-to-face post test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;

2. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;

3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and

4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3 of this paragraph.

(d) A medical test for human immunodeficiency virus infection or for a health condition derived from the infection shall only be required or given to an applicant for an insurance contract on the basis of the applicant's health condition or health history, on the basis of the amount of insurance applied for, or if the test is required of all applicants.

(e) An insurer may ask whether an applicant for an insurance contract has been tested positive for human immunodeficiency virus infection or other health conditions derived from such infection. Insurers shall not inquire whether the applicant has been tested for or has received a negative result from a specific test for human immunodeficiency virus infection or for a health condition derived from such infection.

(f) Insurers shall maintain strict confidentiality of the results of tests for human immunodeficiency virus infection or a specific health condition derived from human immunodeficiency virus infection. Information regarding specific test results shall be disclosed only as required by law or pursuant to a written request or authorization by the applicant. Insurers may disclose results pursuant to a specific written request only to the following persons:

1. The applicant;

2. A licensed physician or other person designated by the applicant;

3. An insurance medical information exchange under procedures that are used to assure confidentiality, such as the use of general codes that also cover results of tests for other diseases or conditions not related to human immunodeficiency virus infection;

4. For the preparation of statistical reports that do not disclose the identity of any particular applicant;

5. Reinsurers, contractually retained medical personnel, and insurer affiliates if these entities are involved solely in the underwriting process and under procedures that are designed to assure confidentiality;

6. To insurer personnel who have the responsibility to make underwriting decisions; and

7. To outside legal counsel who needs the information to represent the insurer effectively in regard to matters concerning the applicant.

(g) Insurers shall use for the processing of human immunodeficiency virus related tests only those laboratories that are certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, which permit testing of specimens in interstate commerce, and which subject themselves to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control.

(5) (a) An insurance contract shall not exclude coverage for human immunodeficiency virus infection. An insurance contract shall not contain benefit provisions, terms, or conditions which apply to human immunodeficiency virus infection in a different manner than those which apply to any other health condition. Insurance contracts which violate this paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-130(1)(a), 304.32-160, 304.38-050, and 304.43-030.

(b) Group insurance contracts shall not exclude coverage of persons eligible for coverage under the contract because of a positive test result for human immunodeficiency virus infection or a health condition derived from human immunodeficiency virus infection, either as a condition for or subsequent to issuance of the group insurance contract.

(c) A health insurance contract shall not be cancelled or nonrenewed solely because a person or persons covered by the contract has been diagnosed as having or has been treated for human immunodeficiency virus infection.

(d) Sexual orientation shall not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the human immunodeficiency virus infection. Neither the marital status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant's sexual orientation.

(e) This subsection does not prohibit the issuance of accident only or specified disease insurance contracts.

Section 58. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(e) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

SECTION 59. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 57(4)(d) of this Act shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100). Each violation shall constitute a separate offense.

SECTION 60. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As a condition of being issued a certificate as an emergency medical technician, the applicant shall have completed a cabinet approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 61. KRS 211.964 is amended to read as follows:

The Cabinet for Human Resources shall adopt rules and regulations relating to emergency medical technicians. The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services; however, no additional testing or course work shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills. Recertification programs shall be organized to include continuing education and in-service training approved by the cabinet. ***The continuing education program shall be subject to the requirements of Section 3(1) of this Act.***

Section 62. KRS 311.654 is amended to read as follows:

(1) The board of medical licensure shall adopt rules and regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and certification of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

(2) Any continuing education required by the board of medical licensure shall include a Cabinet for Human Resources approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

SECTION 63. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board of medical licensure shall, by regulation, require an applicant for certification as a paramedic to have completed a Cabinet for Human Resources approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 64. KRS 311.908 is amended to read as follows:

(1) The board of medical licensure is hereby authorized to certify athletic trainers consistent with the provisions of KRS 311.902 to 311.928 and to adopt rules and regulations necessary for the performance of its duties.

(2) The board shall prescribe application forms for certification.

(3) The board shall establish guidelines for athletic trainers in the state and conduct a certification examination based on recommendations of the council.

(4) The board shall require, as a part of any continuing education requirement, person's certified as athletic trainers to complete a Cabinet for Human Resources approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 65. KRS 311.916 is amended to read as follows:

(1) An applicant for an athletic trainer certificate ***shall*** [~~must~~] possess one of the following qualifications:

(a) Have met the athletic training curriculum requirements of a college or university approved by the board and give proof of graduation; or

(b) Hold a certificate or a degree in physical therapy and have completed: (1) a basic athletic training course; (2) a first aid and a cardio-pulmonary resuscitation course; (3) a nutrition course; and (4) have spent a minimum of 600 clock hours working under the direct supervision of an approved athletic trainer. The board may waive or alter the hour requirements if the applicant can demonstrate equivalent experience; or

(c) Have completed at least four (4) years beyond the secondary school level, while either an undergraduate or graduate student, as an apprentice athletic trainer at a college or university under the direct supervision of an athletic trainer approved by the board. ***The*** [~~Said~~] four (4) years ***shall*** [~~must~~] be consecutive years of supervision, military duty excepted. An applicant for certification under this provision ***shall*** [~~must~~] show proof of graduation from an accredited college or university and successful completion of courses in athletic training, first aid, cardio-pulmonary resuscitation, nutrition, anatomy, physiology and kinesiology.

(2) An out-of-state applicant ***shall*** [~~must~~] fulfill one of the above stated qualifications, (1)(a), (b), or (c). The Commonwealth of Kentucky may grant, without examination, a certificate to any qualified nonresident athletic trainer holding a license or certificate in another state if ***the*** [~~such~~] other state recognizes certificates of the Commonwealth of Kentucky in the same manner. An out-of-state applicant from a state not having a licensure or certification act ***shall*** [~~will~~] be eligible to take the Kentucky certification examination if certified by the national athletic trainers' association and approved by the board.

(3) Any applicant for an athletic trainer certificate shall complete an educational course of the type specified in Section 64(4) of this Act.

Section 66. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars

($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the cabinet for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly, fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(18) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(19) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer or employe of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(24) Any person who violates the provisions of KRS 311.820 is guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by Section 41 of this Act, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

Section 67. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) He has resided in the county wherein he is appointed to serve for a period of at least two (2) years; this subsection shall apply only to deputy sheriffs, deputy constables, and to special local peace officers appointed pursuant to KRS 61.360;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

(5) He has complied with the provisions of Section 68 of this Act.

SECTION 68. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Law Enforcement Council shall develop in conjunction with the Cabinet for Human Resources an educational program on human immunodeficiency virus infection and acquired immunodeficiency virus syndrome of not more than four (4) hours to be delivered by the Department of Criminal Justice Training to all law enforcement officers subject to the provisions of KRS 15.440 or 61.300. The educational program shall be completed annually.

(2) The educational program may be a part of any continuing education program offered by the Department of Criminal Justice Training.

The Committee Amendment No. 1 to the Committee Substitute to **HB 425** is as follows:

Amend printed copy of HCS for **HB 425** on page 69, line 3, by replacing ***(f)*** with ***(c)***;

And on page 72, line 6, after "***for***" by inserting "***testing and***";

And on page 77, line 22, after "***the***" by deleting "***receiving facility***" and inserting in lieu thereof "***agency responsible for procuring the organ, skin, or other human tissue***";

And on page 79, line 17, after "***Each***" by deleting "***person who receives for transplantation***" and inserting in lieu thereof "***agency which procures***";

And on page 79, line 21, after "***representative***" by deleting the rest of the sentence;

And on page 80, line 19, after "***the***" by deleting "***facility receiving***" and inserting in lieu thereof "***agency responsible for procuring***";

And on page 80, line 21, by deleting "***receiving facility***" and inserting in lieu thereof "***agency responsible for procuring skin, organs, or other donated tissue.***";

And on page 88, line 21, by deleting "***hospitalization or placement in another health care or residential facility***" and inserting in lieu thereof "***apprehension, examination, or treatment***";

And on page 89, line 16, by deleting "***hospitalized or placed in emergency hold***" and inserting in lieu thereof "***or apprehended***";

And on page 90, line 14, by deleting "***hospitalized, placed in another health care or residential facility, or isolated in their residences***" and inserting in lieu thereof "***apprehended, examined, or treated***";

And on page 105, by deleting lines 15 through 21 in their entirety;

And on page 105, line 22, by deleting "***(c)***" and inserting in lieu thereof "***(b)***";

And on page 106, line 1, by deleting "***(d)***" and inserting in lieu thereof "***(c)***";

And on page 106, line 9, by deleting "***(e)***, and inserting in lieu thereof "***(d)***".

The Committee Amendment No. 2 to the Committee Substitute to **HB 425** is as follows:

Amend printed copy of HCS for **HB 425** on page 95, line 13, delete "***, or is regarded as being,***" and

On page 95, line 18, delete "***, or is regarded as being,***".

The Committee Amendment No. 3 to the Committee Substitute to **HB 425** is as follows:

Amend printed copy of HCS for **HB 425** on page 97, by deleting Section 54;

And on page 97, line 3, delete "***55, 56, or 57***" and insert in lieu thereof "***54, 55, or 56***";

And on page 77, line 10, delete "***57***" and insert in lieu thereof "***56***";

And on page 98, line 12, change Section 55 to Section 54;

And on page 99, line 19, change Section 56 to Section 55;

And on page 100, line 8, change Section 57 to Section 56;

And on page 106, line 11, change Section 58 to Section 57;

And on page 107, line 15, change Section 59 to Section 58;

And on page 107, line 21, change Section 60 to Section 59;

And on page 108, line 4, change Section 61 to Section 60;

And on page 108, line 25, change Section 62 to Section 61;

And on page 109, line 22, change Section 63 to Section 62;

And on page 110, line 5, change Section 64 to Section 63;

And on page 110, line 25, change Section 65 to Section 64;

And on page 112, line 15, delete "***64***" and insert in lieu thereof "***63***";

And on page 112, line 16, change Section 66 to Section 65;

And on page 118, line 7, change Section 67 to Section 66;

And on page 119, line 5, delete "***68***" and insert in lieu thereof "***67***";

And on page 119, line 6, change Section 68 to Section 67.

The Committee Amendment No. 4 to the Committee Substitute to **HB 425** is as follows:

Amend printed copy of **HB 425/HCS** on page 99, line 6, after the word "handicap", insert "***, a communicable disease***".

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 38, Representative Lear; **HB 132**, Representatives Barrows, Blevins, P. Clark, Walker, Richards, Siler; **HB 193**, Representative Mullinix; **HB 333**, Representative Reinhardt; **HB 353**, Representative Casebier; **HB 357**, Representative Worthington; **HB 426**, Representative Callahan; **HB 432**, Representative Gedling; **HB 513**, Representative Mullinix; **HB 598**, Representative Worthington; **HB 599**, Representatives Northup, K. Harper; **HB 622**, Representative Mullinix; **HB 626**, Representative LeMaster; **HB 653**, Representatives Cline, Ridley, Stumbo; **HB 658**, Representative Mullinix; **HB 687**, Representatives P. Richardson, Zimmerman; **HB 698**, Representatives Casebier, Lile, Northup, Reinhardt; **HB 738**, Representative Lear; **HB 772**, Representative Ward; **HB 800**, Representative L. Clark.

Representative Strong filed a request that he be withdrawn as co-sponsor of **HB 698**.

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the House Committee Substitute to **SB 68**, by Representative Long:

Amend printed copy of HCS for **SB 68** on page 56, line 12, by adding the following new sections:

"Section 18. KRS 304.17-130 is amended to read as follows:

(1) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

(2) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $ (insert an amount which shall not exceed $1000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

(b) "Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services[~~; but it is not required that the service be rendered by a particular hospital or person~~]."

Section 19. KRS 304.18-040 is amended to read as follows:

Any group health policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services[~~; but the policy may not require that the service be rendered by a particular hospital or person~~]. Payments so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

Section 20. KRS 304.32-045 is amended to read as follows:

(1) Any nonprofit hospital, medical-surgical, dental and health service corporation subject to the provisions of this subtitle, possessed of admitted assets in excess of all liabilities at least equal to the original surplus required of a domestic mutual insurance company transacting the same kind or kinds of business may, at its option and without reincorporation, adopt and become subject to the provisions of subtitle 24 of this chapter governing domestic mutual insurers in lieu of this subtitle; provided, however, that upon becoming subject to the provisions of subtitle 24 of this chapter, as hereinafter provided, such companies may continue to provide services to their present or like services to future members and subscribers and may make provision for the payment for health care services directly to hospitals or other agencies or institutions or persons rendering such health care service or related services or may make direct payment to the member or subscriber.

(2) Any nonprofit hospital, medical-surgical, dental and health service corporation subject to the provisions

of this subtitle may adopt and become subject to the provisions of subtitle 24 of this chapter by the adoption of a resolution by its board of directors declaring the election of said nonprofit hospital, medical-surgical, dental and health service corporation to become subject to the provisions of subtitle 24 of this chapter governing domestic mutual insurers, and after the adoption of such resolution the board of directors shall adopt such amendments to the articles of incorporation and bylaws of the nonprofit hospital, medical-surgical, dental and health service corporation as shall be necessary and file the same with the commissioner of the department of insurance of the Commonwealth of Kentucky. Upon such filing, said nonprofit hospital, medical-surgical, dental and health service corporation shall no longer be subject to the provisions of this subtitle, but shall be subject to subtitle 24 of this chapter governing domestic mutual insurers and shall honor all legitimate claims presented by its member policyholders under the terms and conditions of its policy [~~who have incurred claims in any private hospital with acute care in the state of Kentucky as long as the hospital is duly licensed and certified by the state of Kentucky~~]; provided, however, that group certificate holders may also be members of the insurer, if so specified in the bylaws of the insurer; and further provided that the conversion of a nonprofit hospital, medical-surgical, dental and health service corporation, subject to this subtitle, into a domestic mutual insurance company shall not impair the rights or obligations of the nonprofit hospital, medical-surgical, dental and health service corporation or its members on any contract heretofore or hereafter made."

Floor Amendment No. 1 to the Committee Substitute to **HB 560**, by Representative Lear:

Amend printed copy of HCS for **HB 560** on page 17, lines 1-20, by deleting Section 10 in its entirety; and by renumbering all subsequent sections accordingly.

Floor Amendment No. 1 to **HB 509**, by Representative Gedling:

Amend printed copy of **HB 509** on page 1, line 6, after the "**,**" by inserting the word "***or***" and after the word "***mileage***" by deleting the words "***or other conditions***".

Floor Amendment No. 1 to **HB 363**, by Representative Strong:

Amend printed copy of **HB 363** on page 4, line 6, by deleting the semi-colon and adding the following:

"***. When restitution is paid to a governmental agency, that agency shall send a receipt to the defendant's probation officer, parole officer or the court;***

Floor Amendment No. 1 to **HB 628**, by Representative Northup:

Amend printed copy of **HB 628** on page 1, line 3, delete the word "***knowingly***"

On page 1, lines 4 through 7, by deleting after the word "***person***" the following language: "***under the age of sixteen (16), or knowingly solicit any person under the age of sixteen (16) to purchase any tobacco product at retail.***" and by inserting in lieu thereof: "***age sixteen (16) and under, or solicit any person age sixteen (16) and under to purchase any tobacco product at retail.***"

On page 1, line 11, delete "***Under***"

On page 1, line 11, after the word "***Sixteen***" by adding "***And Under***".

Floor Amendment No. 2 to **HB 628**, by Representative Northup:

Amend printed copy of **HB 628** on page 1 and continuing on page 2, by deleting "Section 2" in its entirety.

The Clerk announced the following meetings:

The Committee on Health and Welfare, March 1, 1990, upon adjournment.

The Committee on Transportation, 8:30 a.m., March 1, 1990.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 1, 1990.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Little, Long, Lyne, Mack, Mason, McBee, McElroy, Moberly, Mullinix, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 4—Heleringer, LeMaster, Lile, P. Richardson.

The motion to adjourn was adopted.

THURSDAY, MARCH 1, 1990

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Worthington.

Prayer by Dr. Howard Millen, Director of the Methodist Home for Children, Versailles.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Noe and Keith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 28, 1990 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 206**, **SB 224**, **SB 227**, **SB 231** and **HB 238**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 236** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:05 p.m.)

HB 236 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 814, by Representatives Ward, Blandford, Stumbo, Worthington, Richards, Rapier, Moberly, Blevins and Long: AN ACT relating to state government and declaring an emergency.

HB 815, by Representative Priddy: AN ACT relating to the right to jury trial.

HB 816, by Representative Priddy: AN ACT relating to outdoor advertising devices and declaring an emergency.

HB 817, by Representative Johnson: AN ACT relating to the funding of public safety employees and services, and declaring an emergency.

HB 818, by Representative Ackerson: AN ACT relating to insurance.

HJR 164, by Representatives Hancock, Little, Worthington: A JOINT RESOLUTION creating a Highway Study Committee to research and investigate the needs facing the various transportation systems in Kentucky and making an appropriation therefor.

HR 165, by Representatives Ballard and Bruce: A RESOLUTION adjourning the House in loving memory and honor of William T. "Bill" Brinkley.

HCR 166, by Representative Blandford: A CONCURRENT RESOLUTION establishing a task force to study the foundation programs for law enforcement officers and firefighters.

HR 167, by Representative Heleringer: A RESOLUTION honoring Daniel A. Schneider.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 779**.

Appropriations and Revenue: **HB 784**, **HB 786**, **HB 790**, **HB 798**, **HB 799**, **HB 802**.

Banking and Insurance: **HB 783**.

Business Organizations and Professions: **HB 800**, **HB 801**, **HB 803**.

Cities: **HB 778**, **HB 809**, **SB 211**, **SB 144**, **SB 289**.

Counties and Special Districts: **HCR 163, SB 274.**

Economic Development and Tourism: **HB 810, SCR 74, SCR 75.**

Education: **HB 808.**

Elections and Constitutional Amendments: **HB 805.**

Energy: **HB 791.**

Health and Welfare: **HB 781, HB 797, HCR 159, SB 246.**

Judiciary: **HB 787, HB 788, HB 795, HB 811, HB 813.**

Labor and Industry: **HB 785.**

Natural Resources and Environmental Protection: **HB 792, HB 793, HB 796, HB 807, HCR 161, SB 218, SB 256.**

State Government: **HB 782, HB 804, HB 806, HB 812.**

Transportation: **HB 780, HB 789, HB 794.**

Report of Committees

The Committee on Rules reported **HB 560, HB 102, HB 118, HB 341, HB 562, HB 581, HB 608, HB 619, HB 637, HJR 119, HJR 123, HCR 129, SB 29** and **SB 68** have been posted for passage in Orders of the Day, March 2, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, March 2, 1990: **HB 99, HB 164, HB 432, HB 458.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **HB 779, SB 253.**

Economic Development and Tourism: **HCR 156, HB 742.**

Energy: **HB 688, SB 229.**

Report of Committees

The Committee on Judiciary reported **HB 261** with Committee Substitute attached thereto, **HB 318, HB 407** with Committee Substitute attached thereto, **HB 508, HB 550** with Committee Substitute attached thereto, **HB 553, HB 577, HB 600** and **HB 639** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 261, AN ACT relating to probation and parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the corrections cabinet shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The corrections cabinet shall furnish the circumstances of his offense and his previous social history to the institution and the board. The corrections cabinet shall prepare a report on such information as it obtains. It shall be the duty of the corrections cabinet to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or one (1) or more members for interview and hearing,

except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt rules or regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with such other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the corrections cabinet shall provide the necessary assistance and information to the board in order for it to conduct such timely parole reviews.

(5) In addition to or in conjunction with ***each*** [~~the initial~~] hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than thirty (30) nor more than ninety (90) days' notice: the commonwealth attorney of every county ***and the chief of police of every city*** in which the prisoner committed any Class A, B or C felony for which he is imprisoned, and all identified victims of such crimes or the next of kin of any victim who is deceased. Notice to the commonwealth attorney shall be by mail to his business office. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail to the commonwealth attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986 notice to the victims or their next of kin shall be by mail from the parole board to their last known address as provided by the commonwealth attorney to the parole board at the time of incarceration of the prisoner. The notice shall include the time, date and place of the hearing provided for in this subsection, and the name and address of a person to write in the event the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit written comments to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all such comments prior to making its parole decision, provided they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all such comments in the prisoner's permanent parole board file and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor shall have the right to attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, provided only that such persons shall have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of his intention to attend the hearing. The board shall receive and consider all such comments, shall make a record of them which it shall retain in the prisoner's permanent parole board file and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the parole board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Any hearing provided for in subsections (5) and (6) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of such hearing for reasons of personal safety, in which event the hearing shall be closed.

(8) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the parole board or any of its members, agents or employes.

(9) The unintentional failure by the parole board or any of its members, agents or employes or by a commonwealth attorney or any of his agents or employes to comply with any of the provisions of subsections (5), (6) and (7) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner or any other person.

(10) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the sexual offender treatment program.

(11) Any prisoner who is granted parole after completion of the sexual offender treatment program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the corrections cabinet.

(12) Whenever an order for parole is issued it shall recite the conditions thereof.

The Committee Substitute to **HB 261** is as follows:

HB 261, AN ACT relating to probation and parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the Corrections Cabinet shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The Corrections Cabinet shall furnish the circumstances of his offense and his previous social history to the institution and the board. The Corrections Cabinet shall prepare a report on such information as it obtains. It shall be the duty of the Corrections Cabinet to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or ***two (2)*** [~~one (1)~~] or more members for interview and hearing, except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt rules or regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with such other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the Corrections Cabinet shall provide the necessary assistance and information to the board in order for it to conduct such timely parole reviews.

(5) In addition to or in conjunction with ***each*** [~~the initial~~] hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than ***forty-five (45)*** [~~thirty (30)~~] nor more than ninety (90) days' notice: the ***Commonwealth's*** [~~Commonwealth~~] attorney ***and sheriff*** of every county ***and the chief of police of every city and county*** in which the prisoner committed any Class A, B or C felony for which he is imprisoned, and all identified victims of such crimes or the next of kin of any victim who is deceased. Notice to ***sheriff, chief of police and*** the ***Commonwealth's*** [~~Commonwealth~~] attorney shall be by mail to his business office. ***Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the parole board.*** Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail to the ***Commonwealth's*** [~~Commonwealth~~] attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986 notice to the victims or their next of kin shall be by mail from the parole board to their last known address as provided by the ***Commonwealth's*** [~~Commonwealth~~] attorney to the parole board at the time of incarceration of the prisoner. The notice shall include the time, date and place of the hearing provided for in this subsection, and the name and address of a person to write in the event the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit [~~written~~] comments, ***in person or in writing,*** to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all such comments prior to making its parole decision, provided they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all such comments in the prisoner's permanent parole board file and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition ***to officers listed in subsection (5) of this section***, the

crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor shall have the right to attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, provided only that such persons shall have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of his intention to attend the hearing. The board shall receive and consider all such comments, shall make a record of them which it shall retain in the prisoner's permanent parole board file and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the parole board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Any hearing provided for in subsections (5) and (6) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of such hearing for reasons of personal safety, in which event the hearing shall be closed.

(8) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the parole board or any of its members, agents or employees.

(9) The unintentional failure by the parole board***, sheriff, chief of police,*** or any of its members, agents or employees or by a ***Commonwealth's*** [~~Commonwealth~~] attorney or any of his agents or employees to comply with any of the provisions of subsections (5), (6) and (7) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner or any other person.

(10) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the sexual offender treatment program.

(11) Any prisoner who is granted parole after completion of the sexual offender treatment program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the Corrections Cabinet.

(12) Whenever an order for parole is issued it shall recite the conditions thereof.

Section 2. KRS 197.170 is amended to read as follows:

(1) The wardens of the state penitentiaries upon the release of any prisoner or inmate from confinement, shall immediately notify the Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county and the chief of police of the city ***and county***, to which the inmate is released, giving the residence of the person released and the name of the person to whom he was released.

(2) If the Circuit Court notified pursuant to subsection (1) of this section is a court other than the court which sentenced the inmate, the warden shall also notify the sentencing court.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it.

HB 318, AN ACT relating to lawsuits by prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.110 is amended to read as follows:

(1) All claims must be filed with the Board of Claims within one (1) year from the time the claim for relief accrued.

(2) The claim for relief shall be deemed to accrue at the time of the negligent act with regard to property damage.

(3) The claim for relief for personal injury shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury shall be commenced beyond two (2) years from the date on which the alleged negligent act or omission actually occurred.

(4) Notwithstanding subsection (3) of this section, the claim for relief for medical malpractice shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury as a result of medical malpractice shall be commenced beyond three (3) years from the date on which the alleged negligent act or omission of malpractice actually occurred.

(5) If at the time the alleged negligent act or omission occurred or if at the time the claim for relief accrued or thereafter, the claimant is an infant or of unsound mind or under any other legal disability to file suit, a guardian or next friend or committee or other qualified representative shall bring such action in the Board of Claims on behalf of such person within the same time limitation set forth herein or the claim is barred, notwithstanding KRS 413.170 ***and***[~~,~~] 413.280 [~~and 413.310~~]. If there is no guardian or committee or he is unwilling or unable to act or is himself a claimant, the Board of Claims shall appoint a guardian ad litem to represent the interests of the claimant under legal disability. The Board of Claims shall allow the guardian ad litem a reasonable fee for his services, to be taxed as costs.

Section 2. The following KRS section is repealed:

413.310 Plaintiff's confinement in penitentiary.

HB 407, AN ACT relating to compensation of crime victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Crime Victims Compensation Board;

(2) "Child" means any person less than eighteen (18) years of age;

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them ***who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim***;

(4) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, [~~or in the case of a child,~~] psychological injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted or involved a violation of KRS 189A.010***, driving under the influence***;

(5) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person; and

(6) ***(a)*** "Victim" means a needy person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:

1.[~~(a)~~] Criminally injurious conduct;

2.[~~(b)~~] A good faith effort to prevent criminally injurious conduct; or

3.[~~(c)~~] A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

(b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:

1. The crime would be compensable had it occurred inside this state; and

2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in KRS 346.050.

SECTION 2. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

(1) "Victim" shall also include nonresidents of this state who suffer losses as a direct result of criminal acts occurring within this state.

(2) This section shall be operative only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

Section 3. KRS 346.040 is amended to read as follows:

The board shall have the following powers and duties:

(1) To establish and maintain necessary offices within this state, appoint employees and agents as necessary and prescribe their duties and compensation.

(2) To adopt, promulgate, amend and rescind suitable rules and ***administrative*** regulations to carry out the provisions and purposes of this chapter, including rules for the approval of attorney's fees for representation before the board or upon judicial review as provided for in KRS 346.110.

(3) To hear and determine all matters relating to claims for compensation, and the power to re-investigate or reopen claims without regard to statutes of limitations.

(4) To request from prosecuting attorneys and law enforcement officers investigations and data to enable the board to determine whether, and the extent to which, a claimant qualifies for compensation. The statute providing confidentiality for juvenile session of district court records does not apply to proceedings under this chapter. ***The board shall be allowed access to juvenile records.***

(5) To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers documentary or other evidence. The powers provided in this subdivision may be delegated by the board to any member or employee thereof. If necessary to carry out any of its powers and duties, the board may petition any circuit court for an order.

(6) To take or cause to be taken affidavits or depositions within or without the state.

(7) To make available for public inspection all board decisions and opinions, rules, written statements of policy and interpretations formulated, adopted, or used by it in discharging its functions.

(8) To publicize widely the availability of reparations and information regarding the claims therefor.

Section 4. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent or child of a victim of criminally injurious conduct who died as a direct result of such conduct; [~~and~~]

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime***; and***

(d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.

(2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the board may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the board can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

[~~(2) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person or a member of the family of such persons shall not be eligible to receive an award with respect to such claim, except where the board determines, in a particular case, that the interest of justice so requires.~~]

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban county, or city jail, prison or other correctional facility, or any state institution maintained and operated by the cabinet for human resources.

Section 5. KRS 346.060 is amended to read as follows:

(1) A claim ***form*** may be filed by a person eligible to receive an award, as provided in KRS 346.050, or, if such person is a minor, by his parent or guardian.

(2) A claim ***form*** must be filed by the claimant not later than one (1) year after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than one (1) year after the death

of the victim, provided, however, that upon good cause shown, the board may extend the time for filing if, in a particular case, the interest of justice so requires.

(3) Claims shall be filed in the office of the board in person or by mail. ***Only printed claim forms supplied by the board shall be accepted.*** The board shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in this chapter and meeting the requirements as to form in the rules and regulations of the board.

(4) Upon filing of a claim pursuant to this chapter, the board shall promptly notify the United States attorney (if a federal offense is involved), the commonwealth attorney or county attorney of the county wherein the crime is alleged to have occurred. If, within ten (10) days after such notification, such United States attorney, commonwealth attorney or county attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this chapter until such time as such criminal prosecution has been concluded and shall so notify such United States attorney, commonwealth or county attorney and the claimant. When such criminal prosecution has been concluded such United States attorney, commonwealth or county attorney shall promptly so notify the board. Nothing in this section shall limit the authority of the board to grant emergency awards pursuant to KRS 346.120.

Section 6. KRS 346.080 is amended to read as follows:

(1) A claim, when accepted for filing, shall be assigned by the ***clerk of the board to an investigator for investigation*** [~~chairman to himself or to another member of the board~~]. All claims arising from the death of an individual as a direct result of a crime shall be considered together [~~by a single board member~~].

(2) The ***investigator*** [~~board member~~] to whom such claim is assigned shall examine the papers filed in support of such claim ***and*** [~~. The board member shall thereupon cause an investigation to be conducted into~~] the validity of such claim. Such investigation shall include, but not be limited to, an examination of police, court, and official records and reports concerning the crime.

(3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the board [~~member~~] may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon such examination shall be filed with the ***investigator*** [~~board member~~] setting out findings, including results of all tests made, diagnosis, prognosis and other conclusions.

(4) For purposes of this chapter there is no privilege except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under this chapter in which that condition is an element.

(5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.

(6) ***Upon completion of the investigator's report, the claim shall be assigned to a board member who*** [~~The board member to whom a claim is assigned~~] may decide such claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of ***the*** [~~such~~] claim ***within thirty (30) days of the assignment of the claim.*** If the board member is unable to decide such claim upon the basis of such papers and ***the*** [~~such~~] report, he shall order a hearing. At ***the*** [~~such~~] hearing any relevant evidence, not legally privileged, shall be admissible.

(7) After examining the papers filed in support of such claim and the report of investigation, and after a hearing, if any, the board member to whom such claim was assigned shall make a decision either granting an award pursuant to KRS 346.130 or deny the claim.

(8) The board member making a decision shall file a written report setting forth such decision and his reasons therefor and shall thereupon cause the claimant to be notified and furnish him a copy of such report.

Section 7. KRS 346.090 is amended to read as follows:

(1) The claimant may, within thirty (30) days after receipt of the report of the decision of the board member to whom his claim was assigned ***for decision***, make an application in writing to the board for consideration of such decision by the full board.

(2) Any member of the board may, within thirty (30) days after the filing of such report, make an application in writing to the board for consideration of such decision by the full board.

(3) Upon receipt of an application pursuant to subsections (1) or (2) ***of this section***, the board shall review the record and affirm or modify the decision of the ***deciding*** board member to whom the claim was assigned. The action of the board in affirming or modifying such decision shall be final. The board shall file with the ***clerk*** [~~secretary~~] of the board a written report setting forth its decision, and if such decision varies in any respect from the report of the board member to whom the claim was assigned setting forth its reasons for such decision. If the board receives no application pursuant to subsections (1) and (2) of this section the decision of the board member to whom the claim was assigned ***for decision*** shall become the final decision of the board.

(4) The board shall promptly notify the claimant and the Attorney General of the final decision of the board and furnish each with a copy of the report setting forth such decision.

Section 8. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical or psychological injury ***as a result of a personal physical injury*** to or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. ***Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time. A six (6) months progress report will also be required by the board. The board shall have the power to discontinue mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award provided they were broken or damaged during the crime.***

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. ***The claimant or victim must have been employed at the time the crime occurred. Said employment shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied.*** If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument and grave plot. In no event shall an award for funeral expenses exceed ***thirty-five*** [~~twenty-five~~] hundred dollars ***($3,500)*** [~~($2,500)~~].

(6) Any award made under this chapter shall not exceed twenty-five thousand dollars ($25,000).

(7) No award shall be made for any type of property loss or damage.

SECTION 9. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

Any person who procures or attempts to procure compensation with this board by filing false information, shall have the claim denied and be forever barred from filing a claim with this board.

Section 10. KRS 346.155 is amended to read as follows:

(1) [~~Notwithstanding any other provision of KRS 346.010 to 346.180,~~] The board may award a lump sum payment not to exceed twenty-five thousand dollars ($25,000) to the family of a police officer employed by a city, county or urban-county government who is killed in the line of duty as a police officer for such city, county or urban-county and who is not eligible to receive death or disability benefits under a pension plan of the city, county or urban county.

(2) This section shall apply to any officer killed in the line of duty since January 1, 1986.

SECTION 11. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

The board may apply for funds from, and submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

Section 12. KRS 346.185 is amended to read as follows:

(1) There is established in the state treasury the "crime victims' compensation fund," hereinafter referred to as the "fund," to be administered by the Crime Victims' Compensation Board. In all cases ***whereby any person pleads guilty or nolo contendere to, or is convicted of any felony or misdemeanor under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as an additional cost in the case, in addition and prior to any other cost required to be imposed by law, the sum of twenty dollars ($20)*** [~~in which defendants plead or are found guilty of a crime as defined in KRS 500.080(2), there shall be imposed as an additional cost the sum of ten dollars ($10.00)~~]. This sum shall not be suspended or probated. ***This sum shall be collected in its entirety and shall not be prorated.*** The clerk of the court shall collect the cost and forward it monthly to the state treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) ***If the defendant is adjudged guilty or pleads guilty or if a bond is forfeited and the result of the forfeiture is a final disposition of the case or wherein any penalty is imposed, there is imposed as an additional cost in the case, in addition and prior to any other cost required to be imposed by law, the sum of two dollars ($2) for each traffic infraction. This sum shall not be suspended or probated. This sum shall be collected in its entirety and shall not be prorated. The clerk of the court shall collect the cost and forward it monthly to the State Treasurer to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution to the victim, to the fund, or otherwise as authorized by law.***

(3) In addition to the imposition of any other costs, penalties or fines imposed pursuant to law, any person convicted or pleading guilty to a violation of KRS 189A.010, shall be ordered to pay to the fund an additional cost of twenty dollars ($20). This sum shall not be suspended or probated. This sum shall be collected in its entirety and shall not be prorated. The clerk of the court shall collect the cost and forward it monthly to the State Treasurer to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution to the victim, to the fund, or otherwise as authorized by law.

(4) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; payments by the defendant pursuant to ***subsections (1), (2) and (3)*** [~~subsection (1)~~] of this section and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid ***at seventy percent (70%)*** [~~on a pro rata basis~~]. If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the crime victims' compensation board.

(5)[~~(3)~~] When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.

The Committee Substitute to **HB 407** is as follows:

HB 407, AN ACT relating to compensation of crime victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Crime Victims Compensation Board;

(2) "Child" means any person less than eighteen (18) years of age;

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source. or an authorized person acting on behalf of any of them ***who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim***;

(4) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, [~~or in the case of a child,~~] psychological injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted or involved a violation of KRS 189A.010***, driving under the influence***;

(5) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person; and

(6) ***(a)*** "Victim" means a needy person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:

1.[~~(a)~~] Criminally injurious conduct;

2.[~~(b)~~] A good faith effort to prevent criminally injurious conduct; or

3.[~~(c)~~] A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

(b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:

1. The crime would be compensable had it occurred inside this state; and

2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in KRS 346.050.

SECTION 2. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

(1) "Victim" shall also include nonresidents of this state who suffer losses as a direct result of criminal acts occurring within this state.

(2) This section shall be operative only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

Section 3. KRS 346.040 is amended to read as follows:

The board shall have the following powers and duties:

(1) To establish and maintain necessary offices within this state, appoint employees and agents as necessary and prescribe their duties and compensation.

(2) To adopt, promulgate, amend and rescind suitable rules and ***administrative*** regulations to carry out the provisions and purposes of this chapter, including rules for the approval of attorney's fees for representation before the board or upon judicial review as provided for in KRS 346.110.

(3) To hear and determine all matters relating to claims for compensation, and the power to re-investigate or reopen claims without regard to statutes of limitations.

(4) To request from prosecuting attorneys and law enforcement officers investigations and data to enable the board to determine whether, and the extent to which, a claimant qualifies for compensation. The statute providing confidentiality for juvenile session of district court records does not apply to proceedings under this chapter. ***The board shall be allowed access to juvenile records.***

(5) To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers documentary or other evidence. The powers provided in this subdivision may be delegated

by the board to any member or employee thereof. If necessary to carry out any of its powers and duties, the board may petition any circuit court for an order.

(6) To take or cause to be taken affidavits or depositions within or without the state.

(7) To make available for public inspection all board decisions and opinions, rules, written statements of policy and interpretations formulated, adopted, or used by it in discharging its functions.

(8) To publicize widely the availability of reparations and information regarding the claims therefor.

Section 4. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent or child of a victim of criminally injurious conduct who died as a direct result of such conduct; [~~and~~]

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime***; and***

(d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.

(2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the board may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the board can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

[~~(2) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person or a member of the family of such persons shall not be eligible to receive an award with respect to such claim, except where the board determines, in a particular case, that the interest of justice so requires.~~]

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban county, or city jail, prison or other correctional facility, or any state institution maintained and operated by the cabinet for human resources.

Section 5. KRS 346.060 is amended to read as follows:

(1) A claim ***form*** may be filed by a person eligible to receive an award, as provided in KRS 346.050, or, if such person is a minor, by his parent or guardian.

(2) A claim ***form*** must be filed by the claimant not later than one (1) year after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than one (1) year after the death of the victim, provided, however, that upon good cause shown, the board may extend the time for filing if, in a particular case, the interest of justice so requires.

(3) Claims shall be filed in the office of the board in person or by mail. ***Only printed claim forms supplied by the board shall be accepted.*** The board shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in this chapter and meeting the requirements as to form in the rules and regulations of the board.

(4) Upon filing of a claim pursuant to this chapter, the board shall promptly notify the United States attorney (if a federal offense is involved), the commonwealth attorney or county attorney of the county wherein the crime is alleged to have occurred. If, within ten (10) days after such notification, such United States attorney, commonwealth attorney or county attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this chapter until such time as such criminal prosecution has been concluded and shall so notify such United States attorney, commonwealth or county attorney and the claimant. When such criminal prosecution has been concluded such United States attorney, commonwealth or county attorney shall promptly so notify the board. Nothing in this section shall limit the authority of the board to grant emergency awards pursuant to KRS 346.120.

Section 6. KRS 346.080 is amended to read as follows:

(1) A claim, when accepted for filing, shall be assigned by the ***clerk of the board to an investigator***

for investigation [~~chairman to himself or to another member of the board~~]. All claims arising from the death of an individual as a direct result of a crime shall be considered together [~~by a single board member~~].

(2) The ***investigator*** [~~board member~~] to whom such claim is assigned shall examine the papers filed in support of such claim ***and*** [~~. The board member shall thereupon cause an investigation to be conducted into~~] the validity of such claim. Such investigation shall include, but not be limited to, an examination of police, court, and official records and reports concerning the crime.

(3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the board [~~member~~] may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon such examination shall be filed with the ***investigator*** [~~board member~~] setting out findings, including results of all tests made, diagnosis, prognosis and other conclusions.

(4) For purposes of this chapter there is no privilege except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under this chapter in which that condition is an element.

(5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.

(6) ***Upon completion of the investigator's report, the claim shall be assigned to a board member who*** [~~The board member to whom a claim is assigned~~] may decide such claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of ***the*** [~~such~~] claim ***within thirty (30) days of the assignment of the claim***. If the board member is unable to decide such claim upon the basis of such papers and ***the*** [~~such~~] report, he shall order a hearing. At ***the*** [~~such~~] hearing any relevant evidence, not legally privileged, shall be admissible.

(7) After examining the papers filed in support of such claim and the report of investigation, and after a hearing, if any, the board member to whom such claim was assigned shall make a decision either granting an award pursuant to KRS 346.130 or deny the claim.

(8) The board member making a decision shall file a written report setting forth such decision and his reasons therefor and shall thereupon cause the claimant to be notified and furnish him a copy of such report.

Section 7. KRS 346.090 is amended to read as follows:

(1) The claimant may, within thirty (30) days after receipt of the report of the decision of the board member to whom his claim was assigned ***for decision***, make an application in writing to the board for consideration of such decision by the full board.

(2) Any member of the board may, within thirty (30) days after the filing of such report, make an application in writing to the board for consideration of such decision by the full board.

(3) Upon receipt of an application pursuant to subsections (1) or (2) ***of this section***, the board shall review the record and affirm or modify the decision of the ***deciding*** board member to whom the claim was assigned. The action of the board in affirming or modifying such decision shall be final. The board shall file with the ***clerk*** [~~secretary~~] of the board a written report setting forth its decision, and if such decision varies in any respect from the report of the board member to whom the claim was assigned setting forth its reasons for such decision. If the board receives no application pursuant to subsections (1) and (2) of this section the decision of the board member to whom the claim was assigned ***for decision*** shall become the final decision of the board.

(4) The board shall promptly notify the claimant and the Attorney General of the final decision of the board and furnish each with a copy of the report setting forth such decision.

Section 8. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical or psychological injury ***as a result of a personal physical injury*** to or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. ***Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time. A six (6) months progress report will also be required by the board. The board shall have the power to discontinue mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award provided they were broken or damaged during the crime.***

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. ***The claimant or victim must have been employed at the time the crime occurred. Said employment shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied.*** If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument and grave plot. In no event shall an award for funeral expenses exceed ***thirty-five*** [~~twenty-five~~] hundred dollars ***($3,500)*** [~~($2,500)~~].

(6) Any award made under this chapter shall not exceed twenty-five thousand dollars ($25,000).

(7) No award shall be made for any type of property loss or damage.

SECTION 9. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

Any person who procures or attempts to procure compensation with this board by filing false information, shall have the claim denied and be forever barred from filing a claim with this board.

Section 10. KRS 346.155 is amended to read as follows:

(1) [~~Notwithstanding any other provision of KRS 346.010 to 346.180,~~] The board may award a lump sum payment not to exceed twenty-five thousand dollars ($25,000) to the family of a police officer employed by a city, county or urban-county government who is killed in the line of duty as a police officer for such city, county or urban-county and who is not eligible to receive death or disability benefits under a pension plan of the city, county or urban county.

(2) This section shall apply to any officer killed in the line of duty since January 1, 1986.

SECTION 11. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

The board may apply for funds from, and submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

Section 12. KRS 346.185 is amended to read as follows:

(1) There is established in the state treasury the "crime victims' compensation fund," hereinafter referred to as the "fund," to be administered by the Crime Victims' Compensation Board. In all cases in which defendants plead or are found guilty of a crime as defined in KRS 500.080(2), there shall be imposed as an additional cost the sum of ten dollars ($10.00). This sum shall not be suspended or probated. ***This sum shall be collected in its entirety and shall not be prorated.*** The clerk of the court shall collect the cost and forward it monthly to the state treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; payments by the defendant pursuant to subsection (1) of this section and any other public

or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid ***at seventy percent (70%)*** [~~on a pro rata basis~~]. If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the crime victims' compensation board.

(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.

HB 508, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.540 is amended to read as follows:

Except as provided in KRS 21.550 and 21.560, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to ***promulgate*** [~~make~~] all reasonable [~~rules and~~] regulations, pass upon questions of eligibility and disability, [~~and~~] make contracts or employments for services***, and purchase fiduciary liability insurance***. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

HB 550, AN ACT relating to venue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any existing statute to the contrary, the venue for any action initiated by an agency of state government shall be in the Circuit Court of the county in which the cause of action arose or in the Circuit Court in the county of the defendant's residence.

The Committee Substitute to **HB 550** is as follows:

HB 550, AN ACT relating to venue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any existing statute to the contrary, the venue for any action initiated by an agency of state government shall be in the court of the county in which the cause of action arose or in the court in the county of the defendant's residence.

HB 553, AN ACT relating to exemptions from judgments or bankruptcy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.180 is amended to read as follows:

(1) Estates of every kind held or possessed in trust ***shall be*** [~~are~~] subject to the debts and charges of the beneficiaries thereof the same as if the beneficiaries also owned the similar legal interest in the property, unless the trust is a spendthrift trust.

(2) As used herein, unless the context otherwise requires, "spendthrift trust" means a trust in which by the terms of the instrument creating it a valid restraint on the voluntary and involuntary alienation of the interest of a beneficiary is imposed.

(3) [~~No~~] Specific language ***shall not be*** [~~is~~] necessary to create a spendthrift trust and it ***shall be*** [~~is~~] sufficient if the instrument creating the trust manifests an intention to create a spendthrift trust.

(4) If an instrument creating a trust provides that a beneficiary is entitled to receive income of the trust and that his interest shall not be alienable by him and shall not be subject to alienation by operation of law or legal process, the restraint on the voluntary and involuntary alienation of his right to income due and to accrue ***shall be*** [~~is~~] valid.

(5) If an instrument creating a trust provides that a beneficiary is entitled to receive principal of the trust at a future time and that his interest shall not be alienable by him and shall not be subject to alienation by operation of law or legal process, the restraint on the voluntary and involuntary alienation of his right to principal ***shall be*** [~~is~~] valid.

(6) Although a trust is a spendthrift trust, the interest of the beneficiary shall be subject to the satisfaction of an enforceable claim against the beneficiary:

(a) By the spouse or child of the beneficiary for support, or by the spouse for maintenance;

(b) ***If the trust is not a trust described in subsection (7)(b) of this section by providers of*** [~~for~~] necessary services rendered to the beneficiary or necessary supplies furnished to him; and

(c) By the United States or the Commonwealth of Kentucky for taxes due from him on account of his interest in the trust or the income therefrom.

(7) ***(a)*** If a person creates for his own benefit a trust with a provision restraining the voluntary or involuntary alienation of his interest, his interest nevertheless shall be subject to alienation by operation of law or legal process.

(b) This subsection shall not be construed to subject to alienation any interest in an individual retirement account or annuity, tax sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, as amended, which qualifies for the deferral of current income tax until the date benefits are distributed.

Section 2. KRS 427.150 is amended to read as follows:

(1) [~~An individual is entitled to exemption of the following property~~] To the extent reasonably necessary for the support of ***an individual*** [~~him~~] and his dependents in addition to property totally exempt under subsection (2) of this section***, that individual shall be entitled to exemption of*** [~~: (a)~~] money or property received and rights to receive money or property for alimony, support, or separate maintenance[~~; and~~

~~(b) Assets held, payments made, and amounts payable under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service~~].

(2) An individual ***shall be*** [~~is~~] entitled to exemption of the following property:

(a) An award under a crime victim's reparation law;

(b) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(c) A payment, not to exceed seven thousand five hundred dollars ($7,500), on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(d) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; [~~or~~]

(e) Assets held, payments made and amounts payable under pensions exempt pursuant to KRS 61.690, 161.700, 427.120 and 427.125***; or***

(f) The right or interest of a person in an individual retirement account or annuity, deferred compensation account, tax sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, as amended which qualifies for the deferral of income tax until the date benefits are distributed. This exemption shall also apply to the operation of the Federal Bankruptcy Code, as permitted by Section 522 of Title 11 of the United States Code, 11 U.S.C. 522. This exemption shall not apply to any amounts contributed to an individual retirement account or annuity, deferred compensation account, a pension, profit-sharing, stock bonus, or other qualified retirement plan or annuity if the contribution occurs within one hundred twenty (120) days before the debtor files for bankruptcy. This exemption shall not apply to the right or interest of a person in an individual retirement account or annuity, deferred compensation account, pension, profit-sharing, stock bonus, or other retirement plan to the extent that that right or interest is subject to any of the following:

1. An order of a court for payment of maintenance;

2. An order of a court for payment of child support.

HB 577, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.6-300 is amended to read as follows:

(1) The shareholders of a corporation shall not have a preemptive right to acquire the corporation's unissued shares except:

(a) To the extent the articles of incorporation so provide; and

(b) To the extent provided in subsection (4) of this section.

(2) A statement included in the articles of incorporation that "the corporation elects to have preemptive rights" (or words of similar import) means that the following principles apply, except to the extent the articles of incorporation expressly provide otherwise:

(a) The shareholders of the corporation shall have a preemptive right granted on uniform terms and conditions prescribed by the board of directors, to provide a fair and reasonable opportunity to exercise the right to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

(b) A shareholder may waive his preemptive right. A waiver evidenced by a writing shall be irrevocable even though it is not supported by consideration.

(c) There shall be no preemptive right with respect to:

1. Shares issued as compensation to directors, officers, agents, or employes of the corporation, its subsidiaries or affiliates;

2. Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employes of the corporation, its subsidiaries or affiliates;

3. Shares authorized in articles of incorporation that are issued within six (6) months from the effective date of incorporation; and

4. Shares sold otherwise than for money.

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class.

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one (1) year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one (1) year shall be subject to the shareholders' preemptive rights.

(3) For purposes of this section, "shares" include a security convertible into or carrying a right to subscribe for or acquire shares.

(4) Except to the extent limited or denied by this subsection, shareholders of a corporation that existed on January 1, 1989, whose articles of incorporation did not on January 1, 1989, contain a provision specifically addressing preemptive rights shall have a preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares.

(a) No preemptive right shall exist:

1. To acquire any shares issued to directors, officers or employes pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or when authorized by and consistent with a plan theretofore approved by such a vote of shareholders; or

2. To acquire any shares sold otherwise than for cash.

(b) Holders of shares of any class that is preferred or limited as to dividends or assets shall not be entitled to any preemptive right.

(c) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall not be entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of any class with general voting rights but without preferential rights to distributions or assets, or carrying a right to subscribe to or acquire shares of any class with general voting rights but without preferential rights to distributions or assets.

(d) Holders of shares of any class ***without*** [~~with~~] general voting rights shall have no preemptive rights to shares of a class which is identical as to rights except that the class has general voting rights.

(e) The preemptive right shall be only an opportunity to acquire shares or other securities under such terms and conditions as the board of directors may fix for the purpose of providing a fair and reasonable opportunity to exercise such right.

(f) This subsection shall not apply to any class of stock of any corporation after the corporation's articles of incorporation are amended to limit or deny the preemptive rights of any class of its stock.

HB 600, AN ACT relating to small claims court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.280 is amended to read as follows:

(1) The court shall set a time for hearing. The hearing time set shall be not less than twenty (20) days nor more than forty (40) days after service of process.

(2) The clerk shall notify the defendant of the claim and his right to appear by sending the defendant a copy of the claim and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he fails to appear, judgment may be entered against him. The mode of service shall be as authorized in the Kentucky Revised Statutes or in the Rules of Civil Procedure.

(3) To promote quick settlement of small claims, the division shall grant continuances only ***except for good cause shown*** [~~where reasons of fairness and justice so require~~].

Section 2. KRS 24A.290 is amended to read as follows:

The defendant may file with the clerk a counterclaim against the plaintiff in an amount not in excess of ***fifteen hundred*** [~~one thousand~~] dollars ***($1500)*** [~~($1,000)~~] exclusive of interest and costs, if the counterclaim arose out of the same transaction or occurrence that is the subject matter of the plaintiff's claim, and if the counterclaim does not require for its adjudication the presence of third parties over whom the division cannot acquire jurisdiction. Any counterclaim shall be filed with the clerk, and a copy delivered to the plaintiff at least ***seven (7)*** [~~two (2)~~] days prior to the time of the hearing. If the defendant's counterclaim is in excess of the jurisdictional limits of the division, then the provisions of KRS 24A.310(1) shall apply.

Section 3. KRS 24A.320 is amended to read as follows:

(1) All claims in the small claims division shall be tried without a jury. Upon filing a claim, the plaintiff shall be deemed to have waived his right to a jury trial in the division. This waiver shall be explained on the claim form provided by the clerk.

(2) If the defendant in any action desires a jury trial, he shall give ***written*** notice to the division at least seven (7) days prior to the time set for the hearing, and the case shall be removed to the regular docket of the District Court, and shall thereafter be subject to all the provisions of law and rules of court applicable to proceedings in the District Court.

HB 639, AN ACT relating to child support enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

If a person is in arrears with regard to child support payments and as a result thereof another person receives Aid to Families With Dependent Children (AFDC) payments through the cabinet, the cabinet shall seek a wage assignment for the payment of the arrearage and for current payments for a period of time sufficient to collect the arrearage plus one (1) year.

The Committee Substitute to **HB 639** is as follows:

HB 639, AN ACT relating to child support enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 403.210 IS REPEALED AND RE-ENACTED TO READ AS FOLLOWS:

The General Assembly recognizes that under the federal "Family Support Act of 1988," P.L. 100-485, the Commonwealth of Kentucky is required to implement child support guidelines.

SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) An action to establish or enforce child support may be initiated by the parent or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in Section 3 of this Act shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined parental income in excess of the Kentucky child support guideline;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in Section 3 of this Act.

(6) The court, in its discretion, may order all or any part of child care costs to be paid by either or both of the parents of the child, and if ordered, shall be in addition to the amount ordered under the child support guidelines.

(7) The court may, in its discretion, order the cost of reasonable health insurance coverage of the child to be paid by either or both parents of the child. However, in proceedings by the Cabinet for Human Resources relating to support payments ordered pursuant to Part D, Title IV of the federal Social Security Act, the discretion of the court shall be limited to the determination of what is reasonable health insurance coverage, including the coverage and the cost.

SECTION 3. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) The following provisions and child support tables shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community.

(e) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(f) "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child; and

2. The amount of pre-existing orders of child support to the extent payment is actually made under such orders.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) The child support guideline table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE CHILDREN	FOUR	FIVE	SIX OR MORE
$ 100	$ 60	$ 60	$ 60	$ 60	$ 60	$ 60
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	141	176
800	160	192	208	213	218	223
900	180	216	248	271	276	281
1,000	195	235	270	300	325	340
1,100	212	256	295	328	355	377
1,200	229	277	319	355	385	409
1,300	246	298	344	383	415	441
1,400	262	318	367	409	444	472
1,500	277	337	390	435	472	502
1,600	293	357	413	461	501	533
1,700	308	376	436	487	529	563
1,800	322	394	457	511	556	592
1,900	336	412	479	536	583	621
2,000	350	430	500	560	610	650
2,100	364	448	522	585	637	679
2,200	376	464	541	607	662	706
2,300	389	481	562	631	688	734
2,400	401	497	581	653	713	761
2,500	413	513	601	676	738	788
2,600	424	528	619	697	762	814
2,700	435	543	638	719	786	840
2,800	445	557	655	739	809	865
2,900	455	571	673	760	832	890
3,000	465	585	690	780	855	915
3,100	475	599	708	801	878	940
3,200	485	613	725	821	901	965
3,300	495	627	743	842	924	990
3,400	506	642	761	863	948	1,016
3,500	516	656	779	884	971	1,041
3,600	526	670	796	904	994	1,066
3,700	536	684	814	925	1,017	1,091
3,800	548	700	833	947	1,042	1,118
3,900	559	715	852	969	1,066	1,144
4,000	571	731	871	991	1,091	1,171
4,100	580	744	888	1,011	1,113	1,195
4,200	592	760	907	1,033	1,138	1,222

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE CHILDREN	FOUR	FIVE	SIX OR MORE
4,300	603	775	926	1,055	1,162	1,248
4,400	615	791	945	1,077	1,187	1,275
4,500	626	806	964	1,099	1,211	1,301
4,600	636	820	981	1,119	1,234	1,326
4,700	647	835	1,000	1,141	1,258	1,352
4,800	657	849	1,017	1,161	1,281	1,377
4,900	667	863	1,035	1,182	1,304	1,402
5,000	676	876	1,051	1,201	1,326	1,426
5,100	686	890	1,069	1,222	1,349	1,451
5,200	695	903	1,085	1,241	1,371	1,475
5,300	705	917	1,103	1,262	1,394	1,500
5,400	714	930	1,119	1,281	1,416	1,524
5,500	724	944	1,137	1,302	1,439	1,549
5,600	733	957	1,153	1,321	1,461	1,573
5,700	743	971	1,171	1,342	1,484	1,598
5,800	753	985	1,188	1,362	1,507	1,623
5,900	762	998	1,205	1,382	1,529	1,647
6,000	772	1,012	1,222	1,402	1,552	1,672
6,100	781	1,025	1,239	1,422	1,574	1,696
6,200	791	1,039	1,256	1,442	1,597	1,721
6,300	800	1,052	1,273	1,462	1,619	1,745
6,400	808	1,064	1,288	1,480	1,640	1,768
6,500	816	1,076	1,304	1,499	1,661	1,791
6,600	823	1,087	1,318	1,516	1,681	1,813
6,700	830	1,098	1,333	1,534	1,701	1,835
6,800	837	1,109	1,347	1,551	1,721	1,857
6,900	844	1,120	1,362	1,569	1,741	1,879
7,000	851	1,131	1,376	1,586	1,761	1,901
7,100	858	1,142	1,391	1,604	1,781	1,923
7,200	865	1,153	1,405	1,621	1,801	1,945
7,300	872	1,164	1,420	1,639	1,821	1,967
7,400	879	1,175	1,434	1,656	1,841	1,989
7,500	885	1,185	1,448	1,673	1,860	2,010
7,600	891	1,195	1,461	1,689	1,879	2,031
7,700	896	1,204	1,474	1,705	1,897	2,051
7,800	901	1,213	1,486	1,720	1,915	2,071
7,900	907	1,223	1,500	1,737	1,934	2,092
8,000	912	1,232	1,512	1,752	1,952	2,112
8,100	917	1,241	1,525	1,768	1,970	2,132
8,200	922	1,250	1,537	1,783	1,988	2,152
8,300	928	1,260	1,551	1,800	2,007	2,173
8,400	933	1,269	1,563	1,815	2,025	2,193

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	*ONE CHILD*	*TWO*	*THREE CHILDREN*	*FOUR*	*FIVE*	*SIX OR MORE*
8,500	*938*	*1,278*	*1,576*	*1,831*	*2,043*	*2,213*
8,600	*944*	*1,288*	*1,589*	*1,847*	*2,062*	*2,234*
8,700	*949*	*1,297*	*1,602*	*1,863*	*2,080*	*2,254*
8,800	*954*	*1,306*	*1,614*	*1,878*	*2,098*	*2,274*
8,900	*958*	*1,314*	*1,626*	*1,893*	*2,115*	*2,293*
9,000	*962*	*1,322*	*1,637*	*1,907*	*2,132*	*2,312*
9,100	*966*	*1,330*	*1,649*	*1,922*	*2,149*	*2,331*
9,200	*971*	*1,339*	*1,661*	*1,937*	*2,167*	*2,351*
9,300	*975*	*1,347*	*1,673*	*1,952*	*2,184*	*2,370*
9,400	*979*	*1,355*	*1,684*	*1,966*	*2,201*	*2,389*
9,500	*983*	*1,363*	*1,696*	*1,981*	*2,218*	*2,408*
9,600	*988*	*1,372*	*1,708*	*1,996*	*2,236*	*2,428*
9,700	*992*	*1,380*	*1,720*	*2,011*	*2,253*	*2,447*
9,800	*996*	*1,388*	*1,731*	*2,025*	*2,270*	*2,466*
9,900	*1,000*	*1,396*	*1,743*	*2,040*	*2,287*	*2,485*
10,000	*1,005*	*1,405*	*1,755*	*2,055*	*2,305*	*2,505*

SECTION 4. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky child support guidelines may be used by the parent or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child but not by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for Human Resources or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) circuit judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) district judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the county attorneys association, one (1) from a metropolitan or large urban area and one (1) from a less populated area; and

(f) The Attorney General or his designee, who shall be an attorney from his office.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 5. KRS 403.250 is amended to read as follows:

(1) Except as otherwise provided in subsection (6) of KRS 403.180, the provisions of any decree respecting maintenance [~~or support~~] may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

[~~(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.~~]

Section 6. KRS 403.750 is amended to read as follows:

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds, from a preponderance of the evidence, that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) Restrain the adverse party from committing further acts of domestic violence and abuse;

(b) Restrain the adverse party from disposing of or damaging any of the property of the parties;

(c) Direct the adverse party to vacate the residence shared by the parties to the action;

(d) Utilizing the criteria set forth in KRS 403.270, 403.320 and 403.420 award temporary custody;

(e) Utilizing the criteria set forth in KRS 403.200 and ***the child support guidelines set forth in Section 3 of this Act,*** [~~403.210~~] award temporary support;

(f) Direct that either or both parties receive counseling services available in the community; or

(g) Enter such other orders as the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed one (1) year.

(3) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Section 7. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance or temporary support of a child of the marriage entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(3) On the basis of the showing made and in conformity with KRS 403.200 and ***the child support guidelines set forth in Section 3 of this Act*** [~~403.210~~], the court may issue a temporary injunction or restraining order and an order for temporary maintenance or support in amounts and on terms just and proper in the circumstances.

(4) A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 8. KRS 405.490 is amended to read as follows:

(1) Any person*, **including the obligor,*** who has been served with an order to withhold and deliver ***the*** obligor's property shall answer the order within twenty (20) days.

(2) The person in possession of any obligor's property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or the obligor may offer a bond which is satisfactory to the cabinet.

(3) The person in possession of obligor's property shall have no liability or further responsibility after fulfilling the duties under this section.

(4) The obligor may dispute the amount of delinquent support by requesting a dispute hearing with twenty (20) days.

(5) If the obligor does not request a hearing, acknowledgement of the obligation is presumed and the secretary may apply the withheld property to the delinquent child support obligation.

(6) If a hearing is requested, when property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending [~~final~~] determination of the obligor's liability by a ***hearing officer, pursuant to KRS 405.450*** [~~court of competent jurisdiction~~].

(7) Upon a decision adverse to the Cabinet for Human Resources by a hearing officer, of the circuit court on appeal, the cabinet shall return the property together with interest at the legal rate for judgments.

Section 9. KRS 405.430 is amended to read as follows:

(1) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may determine the parent's minimum monthly ***child*** support obligation ***and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in Section 3 of this Act. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.*** [~~based on scales and ranges it shall develop by administrative regulation, which shall take into account:~~

~~(a) The child's needs;~~

~~(b) The parents' gross income;~~

~~(c) The parents' assets;~~

~~(d) The parents' needs; and~~

~~(e) Any other factors the cabinet deems relevant.~~]

(2) The cabinet may modify a parent's ***child*** [~~minimum monthly~~] support obligation ***or child care obligation*** as established by the cabinet on its own or upon a parent's petition, but only upon a finding of the conditions described [~~in KRS 403.250~~] for judicial modification of a support order.

(3) In establishing a parent's [~~minimum~~] monthly ***child*** support obligation, the cabinet may utilize information about the parent and child which it has good reason to believe is reliable ***and may require the parents to provide income verification.***

[~~(4) Copies of the minimum support obligation scale shall be made available to the courts, county offices, prosecuting attorneys, and, upon request, to any other state or county office or agency in any way engaged in child support collection and enforcement.~~]

Section 10. KRS 405.465 is amended to read as follows:

(1) ***This section shall apply only to those support orders that are established, modified, or enforced by the Cabinet for Human Resources or those court orders obtained in administering Part D, Title IV of the federal Social Security Act*** [~~If, prior to July 15, 1988, the court has ordered either or both parents to pay any amount for the support of a minor child and an arrearage has accrued that is equal to the amount of support payable for one (1) month, upon a finding by the court that an arrearage has accrued that is equal to the amount of support payable for one (1) month, the court shall order either parent or both parents to assign to the domestic relations clerk of the county or other officer designated by the court to receive the payment, that portion of salary or wages of either parent due and to be due in the future as will be sufficient to pay the amount ordered by the court, plus interest at the legal rate on the arrearage, if any, for the support, maintenance and education of the minor child. If the support order was issued after July 15, 1988, assignment of support payments shall begin immediately, except for good cause shown as determined by the court. If good cause is shown, income withholding shall take effect when the obligor does not provide support in the amount due and an arrearage has accrued that is equal to the amount of support payable for one (1) month, as determined by the cabinet or its designee~~].

(2) All child support orders being established, modified, or enforced by the Cabinet for Human Resources, or those orders obtained pursuant to the administration of Part D, Title IV of the federal Social Security Act, shall provide for income withholding which shall begin immediately.

(3) The court shall order either or both parents who are obligated to pay support under this section to assign to the Cabinet for Human Resources or the domestic relations clerk of the court or other officer designated by the court to receive the payment, that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.

(4)[~~(2)~~] The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.

(5)[~~(3)~~] Any assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(6)[~~(4)~~] No assignment under this section by an employe shall constitute grounds for dismissal of the obligor, refusal to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

[~~(5) Nothing within this section shall preclude a court from ordering a wage assignment prior to any arrearages as the court deems proper.~~]

Section 11. KRS 405.467 is amended to read as follows:

(1) ***All support orders issued by the Cabinet for Human Resources, including those issued pursuant to Part D, Title IV of the federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support as is necessary to pay the child support obligation*** [~~In any case determined before July 15, 1988, in which a parent is required to pay court-ordered or administratively determined child support and an arrearage accrues that is equal to the amount of support payable for one (1) month, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any. Said payments shall be made through the domestic relations clerk of the county or other county officer designated by the court to receive such payment. If the support order was issued after July 15, 1988, withholding of support payments shall begin immediately, except for good cause shown. If good cause is shown as determined by the court or administrative agency issuing the order, income withholding shall take effect when the obligor does not provide support in the amount due~~].

(2) ***In any case in which a parent is required to pay court ordered or administratively determined child support, wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any.***

(3) Advance notice shall be sent to the obligor prior to the issuance of the order to withhold earnings. The notice shall advise the obligor of the proposed withholding and the procedures to follow to contest the withholding. The only basis for contesting the withholding shall be a mistake of fact, which means an error in the amount of current or past-due support or the identity of the parent.

(4)[~~(3)~~] If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his case and decide if the withholding will occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the obligor of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the obligor with the information contained in any order served on the employer with respect to the withholding.

(5)[~~(4)~~] The cabinet shall serve the order to withhold earnings on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, may not exceed the limit permitted under federal law.

(6)[~~(5)~~] The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(7)[~~(6)~~] Any order to withhold earnings under this section shall have priority as against any attachment, execution or other assignment, notwithstanding any state statute or regulation to the contrary.

(8)[~~(7)~~] No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(9)[~~(8)~~] The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(10)[~~(9)~~] Interstate requests for withholding of earnings shall be processed by the cabinet.

Section 12. KRS 205.721 is amended to read as follows:

(1) All services available to individuals receiving aid to families with dependent children (AFDC) benefits shall also be available to individuals not receiving AFDC benefits, upon application by ***the*** [~~such~~] individual with the cabinet.

(2) The cabinet shall continue to provide IV-D services ***when*** [~~whenever~~] a family ceases to receive public assistance[~~. The cabinet shall continue to provide services for a period not to exceed three (3) months from the month following the month in which the family ceased to receive public assistance. If authorized by the recipient, the cabinet shall continue to provide services beyond this period~~] without requiring a formal application and without payment of the application fee specified in subsection (3) of this section. ***IV-D services shall be discontinued upon the request of the recipient.***

(3) Except as provided in subsection (2) of this section, the cabinet ***may*** [~~is authorized to~~] charge an application fee for ***the*** [~~such~~] services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.

Section 13. KRS 205.745 is amended to read as follows:

(1) A child support lien in favor of the cabinet shall attach to all personal and real property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month ***and the child support has been assigned to the cabinet. The lien shall be cumulative and shall include all unpaid child support then due and thereafter accruing until the lien is paid in full.***

(2) The cabinet shall file its claim of lien within three (3) years from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the cabinet for human resources, claims a lien in the amount of ***plus all unpaid child support hereafter accruing, including interest, until paid in full*** on the (describe property) of (name of obligor) for child support owed to obligor's dependent children or for such public assistance moneys as may have been paid to obligor's children by the cabinet for human resources."

(3) The cabinet shall notify the obligor of the filing of its claim of lien.

Section 14. KRS 403.215 is amended to read as follows:

After July 15, 1988, in any new or modified order or decree which contains provisions for the support of a minor child or minor children, the order or decree shall include a provision that if an arrearage accrues that is equal to the amount of support payable for one (1) month, a wage assignment [~~pursuant to KRS 405.465~~] may issue.

Section 15. KRS 406.031 is amended to read as follows:

(1) The determination of paternity under the provisions of KRS 406.021 (1) shall be commenced within eighteen (18) years after the birth, miscarriage or stillbirth of a child. However, in such cases, liability for child support shall not predate the initiation of action taken to determine paternity as set forth in KRS 406.021 if the action is taken four (4) years or more from the date of birth.

(2) Any person for whom paternity has not yet been established and who had not reached eighteen (18) years of age as of August 16, 1984, including those persons for whom a paternity action was brought but dismissed because a statute of limitations of less than eighteen (18) years was then in effect, may bring an action to establish paternity for a period of one (1) year from the effective date of this Act.

Section 16. The following KRS sections are repealed:

407.430 Jurisdiction — Both parties resident of this state — Different counties.

15.290 Establishment of commission.

205.741 Assignment of wages to satisfy support obligation — Notice of withholding.

205.743 Service of withholding order on employer or debtor — Effect.

205.744 Employment information of obligor to be furnished to cabinet.

The Committee on Business Organizations and Professions reported **HB 442**, **HB 520** with Committee Substitute attached thereto, **HB 594**, **HB 679**, **HB 700** with Committee Amendment attached thereto, **HB 713** with Committee Amendment attached thereto, and **HCR 76** with Committee Substitute and Committee Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 442, AN ACT relating to the Pest Control Advisory Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.505 is amended to read as follows:

There shall be established ***a seven (7)*** [~~an eight (8)~~] member Pest Control Advisory Board which shall consist of the following members:

(1) President of KPCA or his designated representative from the KPCA board of directors.

(2) One (1) member of KPCA appointed by the Governor from a list of persons in the pest control industry submitted by the KPCA, who shall be residents of the Commonwealth. This member shall serve a two (2) year term.

(3) The chairman of the University of Kentucky Department of Entomology or his designated representative.

(4) One (1) other member of the University of Kentucky Department of Entomology appointed by the chairman of the Department of Entomology.

(5) Two (2) members of the department appointed by the Commissioner of Agriculture.

(6) [~~One (1) member appointed from the consumer protection division of the Kentucky Attorney General's Office appointed by the Attorney General of Kentucky as a non-voting legal advisor.~~

~~(7)~~] One (1) consumer member appointed by the Commissioner of Agriculture. This member shall serve a two (2) year term.

(7)[~~(8)~~] ***If*** [~~Whenever~~] a vacancy occurs on the board, ***it*** [~~that vacancy~~] shall be filled in the manner designated in this section.

(8)[~~(9)~~] At the first meeting of the Pest Control Advisory Board, a chairman, a vice chairman and a secretary shall be elected for one (1) year. They shall serve at the pleasure of the board. The chairman or the vice chairman shall preside at all meetings and vote as any other member. The secretary of the board shall maintain accurate minutes of each meeting of the board.

(9)[~~(10)~~] Five (5) members of the board shall constitute a quorum and any action or order of the board shall require the presence of a quorum and the approval of a simple majority of the members present.

(10)[~~(11)~~] The board shall meet on the first Thursday of alternate months beginning with January at Frankfort or such other place in Kentucky as the chairman shall direct. If the first Thursday falls on a holiday, the meeting shall take place the following Thursday. The secretary of the board shall notify members of upcoming meetings ten (10) days prior to the meeting. However, four (4) members of the board may call a special meeting of the board on ten (10) days' notice to the other members.

(11)[~~(12)~~] Members of the board shall serve without compensation; however, members who are not employees of the Commonwealth shall be entitled to reimbursement by the department for actual expenses incurred in carrying out the duties of the board.

HB 520, AN ACT relating to real estate appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 324A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the contest requires otherwise:

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation;

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased real estate appraisal;

(3) "Appraisal report" means any communication, written or oral, conveying a real estate appraisal, and all other reports communicating an appraisal analysis, opinion, or conclusion;

(4) "Board" means the Real Estate Appraisers Board created under this Act;

(5) "General appraisal certificate" means a certificate issued pursuant to the provisions of this Act for appraisal of all types of real estate;

(6) "Real estate" or "real property" means real estate in its ordinary meaning and includes any leasehold or other estate or interest in, over or under land, including leaseholds and all appurtenances;

(7) "Residential appraisal certificate" means a certificate issued pursuant to the provisions of this Act limited to certification for appraisals of residential real estate or real property of no more than four (4) residential units;

(8) "Kentucky certified appraisal" means any appraisal which is identified as a state certified appraisal report or is in any way described as being prepared by a state certified real estate appraiser, with either a general or residential appraisal certification;

(9) "Kentucky certified real property appraiser" (KCRPA) means a person who holds a current valid general appraisal certificate issued pursuant to the provisions of this Act;

(10) "Kentucky certified residential appraiser" (KCRA) means a person who holds a current, valid residential appraisal certificate issued pursuant to the provisions of this Act; and

(11) "Standards of professional appraisal practice" means those standards promulgated or incorporated by reference by regulation of the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) There is created a Real Estate Appraisers Board consisting of five (5) members, three (3) of whom shall be certified real estate appraisers, one (1) of whom shall represent the public and shall not be associated with or financially interested in the practice of real estate appraisals, and one (1) of whom shall be employed in the lending industry. The board shall administer the provisions of this chapter and may issue administrative regulations necessary to effectuate the provisions of this Act.

(2) The board members shall be appointed by the Governor with initial appointments for two (2) members including the public member, for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year. Not more than one (1) board member shall be from any one (1) county within Kentucky. Thereafter, the members shall be appointed by the Governor for staggered terms of three (3) years. No person shall serve more than two (2) full consecutive terms.

(3) The initial appraiser appointees to the board shall not be required to be certified, but rather shall, by their sworn statement in writing and signed, have engaged in the appraisal of real estate for at least ten (10) years within the Commonwealth of Kentucky.

(4) A board member shall be automatically removed from the board and a vacancy shall occur when:

(a) An appraiser member of the board ceases to be certified;

(b) A consumer member of the board acquires a certification as an appraiser;

(c) A lending industry member ceases to be employed in the lending industry;

(d) A board member enters a plea of guilty to, or has been found guilty of a felony and the time for appeal has passed or the judgement of conviction has been finally affirmed on appeal; or

(e) A board member ceases to be a bona fide resident of the Commonwealth of Kentucky.

(5) The board shall adopt a seal with the design as the board may prescribe, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the board under the authority of this chapter shall be open to public inspection in accordance with KRS 61.820 to 61.884 and consistent with regulations prescribed by the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

The board shall have authority to promulgate administrative regulations, have subpoena power, hold disciplinary hearings, conduct examinations, conduct educational seminars, investigate allegations of wrongdoing under this chapter, seek and obtain injunctive relief to enforce the provisions of this Act, provide a list of certified appraisers to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, and perform such other functions and duties as may be necessary in carrying out the provisions of the Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chairman each year at the first meeting called after appointment of new members. A majority of the board shall constitute a quorum and may exercise all powers and duties established by the provisions of this Act.

(2) The board shall meet at least once each calendar quarter.

(3) Each member of the board shall receive actual and necessary expenses and mileage and shall receive one hundred dollars ($100) per day as compensation for each day spent on duties as a member of the board. The board shall receive administrative and staff support from the Kentucky Real Estate Commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) Effective January 1, 1991, it shall be unlawful, unless certified by the board as a state certified real estate appraiser under a general appraisal certification, or residential appraisal certification, for any person to:

(a) Assume or use any title, designation, or abbreviation likely to create the impression of certification as a Kentucky certified residential appraiser (KCRA) or a Kentucky certified real property appraiser (KCRPA);

(b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified"; or

(c) Assume or use any title, designation, or abbreviation likely to create the impression of certification as a state certified real estate appraiser firm, partnership or corporation.

(2) A holder of a Kentucky certificate of any type may prepare appraisals for any and all types of real estate, provided such appraisals are not described or referred to by an incorrect statement of certification by type. The holder of a certificate shall not assume or use any title, designation, or abbreviation likely to create the impression of certification by the board other than the correct type of certification.

(3) Each appraiser certified under this chapter shall have and maintain a definite place of business in this state. If the appraiser is a nonresident, it is not mandatory to maintain an active place of business in this state if a business office is maintained in the state where the appraiser resides.

(4) Each appraiser certified under this chapter shall notify the board of any change of business address, change of company name or change of surname, within ten (10) days of the change.

(5) In the case of the death of an appraiser certified under the provisions of this Act, the board may, in its sound discretion, permit a suitable individual to complete the affairs and appraisal assignments of the deceased appraiser.

SECTION 6. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) Certificates shall be granted only to persons who are deemed by the board to be competent to render appraisals, who have reached the age of eighteen (18), and who are high school graduates or hold a high school equivalency diploma.

(2) Each applicant for a real estate appraisers certificate shall have:

(a) Received a two (2) year associate degree in real estate from an accredited college or university, or shall have completed a comparable course of study approved by the board; or

(b) Successfully completed specified classroom instruction in real estate appraisal, with the number of classroom hours required for each type of certificate and the course content to be prescribed by board regulation, subject to the following conditions:

1. The total number of classroom hours required shall not exceed the minimum number required by federal law or regulation, and

2. A minimum of fifteen (15) classroom hours required shall relate to Standards of Professional Practice.

(3) If a minimum number of classroom hours required is not specified in federal law or regulation, the number prescribed by regulation of the board shall not exceed one hundred fifty (150) hours for a general appraisal certificate and sixty (60) hours for a residential appraisal certificate.

(4) Each applicant for certification shall have two (2) years of experience in the appraisal of real estate within the five (5) year period immediately before application, said experience to be supported by written reports or file memoranda for each year of experience claimed.

(5) No appraiser certificate shall be issued to a corporation, partnership or association. This prohibition shall not be construed to prevent a state certified appraiser from signing an appraisal report on behalf of a corporation, partnership or association.

(6) Each person who files an application for an initial appraiser certificate within one (1) year of the date established by the board as the first date on which applications will be accepted under this section, and who, at the time of filing that application, does not satisfy the educational requirements for the class of certification sought, is exempt from those educational requirements for the term of the initial certification. In applying for a renewal certificate, a state-certified real estate appraiser who was exempted from the educational requirements of this section when applying for his initial appraiser certificate shall present satisfactory evidence to the board that he has completed the educational requirements for the certification to be renewed.

SECTION 7. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) All applications for certificates shall be made in writing, specify the classification of the certificate being applied for by the applicant, and shall contain all information required by the board.

(2) Each applicant for a certificate shall demonstrate competence, by successfully passing a written examination which shall be of scope and content sufficient to establish the competency of the applicant for the particular certificate sought. Any examination used by the board shall be validated by a reputable testing authority as to its effectiveness in measuring a person's ability to competently appraise real estate.

(3) The examination shall be given at such times and places within the state as the board shall prescribe; provided however, the examination shall be given at least two (2) times during each calendar year. Notice of passing or failing the examination shall be provided to each applicant.

SECTION 8. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue to each qualified applicant a certificate in form and size as shall be prescribed by the board.

(2) Every certificate shall be subject to annual renewal on the date or dates determined by the board by regulation. Each certificate holder shall submit proof of compliance with the continuing education requirements when appropriate and the annual renewal fee to the board on or before the last day of the designated month. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time.

(3) If the certificate holder fails to renew in a timely manner, the certificate shall expire. Within six (6) months after the renewal date, the former certificate holder may reinstate the certificate by complying with all appropriate renewal requirements and paying a late fee not to exceed two hundred dollars ($200).

(4) If six (6) months or more elapse from the renewal date, the former certificate holder shall be required to meet all provisions for certification as if newly applying for certification.

SECTION 9. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

The board may refuse issuance or renewal of a certificate for cause, fine up to five hundred dollars ($500), suspend, or revoke a certificate at any time, when the applicant or certificate holder, in performing or attempting to perform any of the actions set forth herein, is deemed guilty of:

(1) Procuring or attempting to procure a certificate by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;

(2) Refusing to provide complete information in response to a question in an application for certification or failing to meet the minimum qualifications established by this Act;

(3) Being convicted of any felony, or of a misdemeanor related to real estate appraising;

(4) Committing an act involving dishonesty, fraud, or misrepresentation;

(5) Willfully disregarding or violating any of the provisions of this Act or the administrative regulations of the board;

(6) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined analysis or opinion, or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(7) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;

(8) Committing any other conduct which is related to dealings as a Kentucky certified real estate appraiser and which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, dishonesty, or any unlawful act;

(9) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(10) Repeatedly being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal; or

(11) Failing to observe one (1) or more of the Standards of Professional Appraisal Practice.

SECTION 10. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

All administrative support required by the board to administer the provisions of this Act shall be provided by the Kentucky Real Estate Commission. All fees and expenses shall be paid and charged according to the provisions of KRS 324.286. No fees shall be paid to the real estate education, research and recovery fund and no charges or expenses shall be paid from this fund for or on behalf of the board or under any provision of this Act. Hearings shall be administered by Kentucky Real Estate Commission staff and by its procedures, except that the board shall decide all cases.

SECTION 11. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

The board shall establish by regulation and collect the following fees:

(1) An initial application fee for a Kentucky certified real property appraiser certification or a Kentucky certified residential appraiser certification in an amount not to exceed two hundred dollars ($200);

(2) An examination fee for a Kentucky real property appraiser certification or a residential appraiser certification, in an amount not to exceed two hundred dollars ($200);

(3) An annual certificate renewal fee for a Kentucky certified real property appraiser certification or a Kentucky certified residential appraiser certification in an amount not to exceed two hundred dollars ($200);

(4) For each duplicate certificate, a fee in an amount not to exceed ten dollars ($10); and

(5) A fee for any change of information on the certificate in an amount not to exceed ten dollars ($10).

(6) All fees and charges collected by the board under the provisions of this chapter shall be paid into a trust and agency account in the state treasury. All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.

SECTION 12. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) The board shall adopt by regulation, standards of professional appraisal practice which shall include ethical standards by which certified real estate appraisers shall practice.

(2) The board shall adopt by regulation, standards for continuing education for certificate holders, including the number of classroom hours which shall be completed each year as a condition of certificate renewal. The number of hours required, however, shall not exceed the minimum number of hours required by federal law or regulation.

SECTION 13. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

If, in the determination by the board, another state is deemed to have substantially equivalent certification or licensure requirements for real estate appraisers, an applicant who is certified or licensed under the laws of another state may obtain a certificate as a state certified real estate appraiser in this state upon terms and conditions determined by the board.

SECTION 14. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

Effective January 1, 1990, any person who is not a certified real estate appraiser who engages in an activity described in subsection (1) of Section 5 of this Act, shall be guilty of a class A misdemeanor. Each violation should be regarded as a separate offense.

SECTION 15. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

Sections 1 through 14 of this Act may be cited as the Real Estate Appraisal Voluntary Certification Act.

The Committee Substitute to **HB 520** is as follows:

HB 520, AN ACT relating to real estate appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 324A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the contest requires otherwise:

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation;

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased real estate appraisal;

(3) "Appraisal report" means any communication, written or oral, conveying a real estate appraisal, and all other reports communicating an appraisal analysis, opinion, or conclusion;

(4) "Board" means the Real Estate Appraisers Board created under this Act;

(5) "General appraisal certificate" means a certificate issued pursuant to the provisions of this Act for appraisal of all types of real estate;

(6) "Real estate" or "real property" means real estate in its ordinary meaning and includes any leasehold or other estate or interest in, over or under land, including leaseholds and all appurtenances;

(7) "Residential appraisal certificate" means a certificate issued pursuant to the provisions of this Act limited to certification for appraisals of residential real estate or real property of no more than four (4) residential units;

(8) "Kentucky certified appraisal" means any appraisal which is identified as a state certified appraisal report or is in any way described as being prepared by a state certified real estate appraiser, with either a general or residential appraisal certification;

(9) "Kentucky certified real property appraiser" (KCRPA) means a person who holds a current valid general appraisal certificate issued pursuant to the provisions of this Act;

(10) "Kentucky certified residential appraiser" (KCRA) means a person who holds a current, valid residential appraisal certificate issued pursuant to the provisions of this Act; and

(11) "Standards of professional appraisal practice" means those standards promulgated or incorporated by reference by regulation of the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) There is created a Real Estate Appraisers Board consisting of five (5) members, two (2) of whom shall be certified real estate appraisers, one (1) of whom shall represent the public and shall not be associated with or financially interested in the practice of real estate appraisals, and two (2) of whom shall be employed in the lending industry. The board shall administer the provisions of this chapter and may issue administrative regulations necessary to effectuate the provisions of this Act.

(2) The board members shall be appointed by the Governor with initial appointments for two (2) members including the public member, for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year. Not more than one (1) board member shall be from any one (1) county within Kentucky. Thereafter, the members shall be appointed by the Governor for staggered terms of three (3) years. No person shall serve more than two (2) full consecutive terms.

(3) The initial appraiser appointees to the board shall not be required to be certified, but rather shall, by their sworn statement in writing and signed, have engaged in the appraisal of real estate for at least ten (10) years within the Commonwealth of Kentucky.

(4) A board member shall be automatically removed from the board and a vacancy shall occur when:

(a) An appraiser member of the board ceases to be certified;

(b) A consumer member of the board acquires a certification as an appraiser;

(c) A lending industry member ceases to be employed in the lending industry;

(d) A board member enters a plea of guilty to, or has been found guilty of a felony and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal; or

(e) A board member ceases to be a bona fide resident of the Commonwealth of Kentucky.

(5) The board shall adopt a seal with the design as the board may prescribe, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the board under the authority of this chapter shall be open to public inspection in accordance with KRS 61.820 to 61.884 and consistent with regulations prescribed by the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

The board shall have authority to promulgate administrative regulations, have subpoena power, hold disciplinary hearings, conduct examinations, conduct educational seminars, investigate allegations of wrongdoing under this chapter, seek and obtain injunctive relief to enforce the provisions of this Act, provide a list of certified appraisers to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, and perform such other functions and duties as may be necessary in carrying out the provisions of the Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chairman each year at the first meeting called after appointment of new members. A majority of the board shall constitute a quorum and may exercise all powers and duties established by the provisions of this Act.

(2) The board shall meet at least once each calendar quarter.

(3) Each member of the board shall receive actual and necessary expenses and mileage and shall receive one hundred dollars ($100) per day as compensation for each day spent on duties as a member of the board. The board shall receive administrative and staff support from the Kentucky Real Estate Commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) Effective January 1, 1991, it shall be unlawful, unless certified by the board as a state certified real estate appraiser under a general appraisal certification, or residential appraisal certification, for any person to:

(a) Assume or use any title, designation, or abbreviation likely to create the impression of certification as a Kentucky certified residential appraiser (KCRA) or a Kentucky certified real property appraiser (KCRPA);

(b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified"; or

(c) Assume or use any title, designation, or abbreviation likely to create the impression of certification as a state certified real estate appraiser firm, partnership or corporation.

(2) A holder of a Kentucky certificate of any type may prepare appraisals for any and all types of real estate, provided such appraisals are not described or referred to by an incorrect statement of certification by type. The holder of a certificate shall not assume or use any title, designation, or abbreviation likely to create the impression of certification by the board other than the correct type of certification.

(3) Each appraiser certified under this chapter shall have and maintain a definite place of business in this state. If the appraiser is a nonresident, it is not mandatory to maintain an active place of business in this state if a business office is maintained in the state where the appraiser resides.

(4) Each appraiser certified under this chapter shall notify the board of any change of business address, change of company name or change of surname, within ten (10) days of the change.

(5) In the case of the death of an appraiser certified under the provisions of this Act, the board may, in its sound discretion, permit a suitable individual to complete the affairs and appraisal assignments of the deceased appraiser.

SECTION 6. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) Certificates shall be granted only to persons who are deemed by the board to be competent to render appraisals, who have reached the age of eighteen (18), and who are high school graduates or hold a high school equivalency diploma.

(2) Each applicant for a real estate appraisers certificate may also be required by board regulation to have classroom instruction or experience in real estate appraisal, or both, but the total number of classroom hours and experience required shall not exceed the minimum number required by federal law or regulation.

(3) Each person who files an application for an initial appraiser certificate within one (1) year of the date established by the board as the first date on which applications will be accepted under this section, and who, at the time of filing that application, does not satisfy the educational requirements for the class of certification sought, is exempt from those educational requirements for the term of the initial certification. In applying for a renewal certificate, a state-certified real estate appraiser who was exempted from the educational requirements of this section when applying for his initial appraiser certificate shall present satisfactory evidence to the board that he has completed the educational requirements for the certification to be renewed.

SECTION 7. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) All applications for certificates shall be made in writing, specify the classification of the certificate being applied for by the applicant, and shall contain all information required by the board.

(2) Each applicant for a certificate shall demonstrate competence, by successfully passing a written examination which shall be of scope and content sufficient to establish the competency of the applicant for the particular certificate sought. Any examination used by the board shall be validated by a reputable testing authority as to its effectiveness in measuring a person's ability to competently appraise real estate.

(3) The examination shall be given at such times and places within the state as the board shall prescribe; provided however, the examination shall be given at least two (2) times during each calendar year. Notice of passing or failing the examination shall be provided to each applicant.

SECTION 8. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue to each qualified applicant a certificate in form and size as shall be prescribed by the board.

(2) Every certificate shall be subject to annual renewal on the date or dates determined by the board by regulation. Each certificate holder shall submit proof of compliance with the continuing education requirements when appropriate and the annual renewal fee to the board on or before the last day of the designated month. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time.

(3) If the certificate holder fails to renew in a timely manner, the certificate shall expire. Within six (6) months after the renewal date, the former certificate holder may reinstate the certificate by complying with all appropriate renewal requirements and paying a late fee not to exceed two hundred dollars ($200).

(4) If six (6) months or more elapse from the renewal date, the former certificate holder shall be required to meet all provisions for certification as if newly applying for certification.

SECTION 9. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

The board may refuse issuance or renewal of a certificate for cause, fine up to five hundred dollars ($500), suspend, or revoke a certificate at any time, when the applicant or certificate holder, in performing or attempting to perform any of the actions set forth herein, is deemed guilty of:

(1) Procuring or attempting to procure a certificate by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;

(2) Refusing to provide complete information in response to a question in an application for certification or failing to meet the minimum qualifications established by this Act;

(3) Being convicted of any felony, or of a misdemeanor related to real estate appraising;

(4) Committing an act involving dishonesty, fraud, or misrepresentation;

(5) Willfully disregarding or violating any of the provisions of this Act or the administrative regulations of the board;

(6) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined analysis or opinion; or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(7) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;

(8) Committing any other conduct which is related to dealings as a Kentucky certified real estate appraiser and which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, dishonesty, or any unlawful act;

(9) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(10) Repeatedly being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal; or

(11) Failing to observe one (1) or more of the Standards of Professional Appraisal Practice.

SECTION 10. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

All administrative support required by the board to administer the provisions of this Act shall be provided by the Kentucky Real Estate Commission. All fees and expenses shall be paid and charged according to the provisions of KRS 324.286. No fees shall be paid to the real estate education, research and recovery fund and no charges or expenses shall be paid from this fund for or on behalf of the board or under any provision of this Act. Hearings shall be administered by Kentucky Real Estate Commission staff and by its procedures, except that the board shall decide all cases. This section shall be repealed effective June 30, 1992.

SECTION 11. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

Effective July 1, 1992, the board shall be empowered to employ an executive director and other personnel as may be necessary to discharge the duties imposed by the provisions of this Act. The board shall outline the duties of all personnel and fix their compensation in accordance with KRS Chapter 18A. The board is also empowered to obtain office space, utilities, furniture, supplies and other goods and services as shall be reasonably necessary for carrying out the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

The board shall establish by regulation and collect the following fees:

(1) An initial application fee for a Kentucky certified real property appraiser certification or a Kentucky certified residential appraiser certification in an amount not to exceed two hundred dollars ($200);

(2) An examination fee for a Kentucky real property appraiser certification or a residential appraiser certification, in an amount not to exceed two hundred dollars ($200);

(3) An annual certificate renewal fee for a Kentucky certified real property appraiser certification or a Kentucky certified residential appraiser certification in an amount not to exceed two hundred dollars ($200);

(4) For each duplicate certificate, a fee in an amount not to exceed ten dollars ($10); and

(5) A fee for any change of information on the certificate in an amount not to exceed ten dollars ($10).

(6) All fees and charges collected by the board under the provisions of this chapter shall be paid into a trust and agency account in the state treasury. All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.

SECTION 13. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

(1) The board shall adopt by regulation, standards of professional appraisal practice which shall include ethical standards by which certified real estate appraisers shall practice.

(2) The board shall adopt by regulation, standards for continuing education for certificate holders, including the number of classroom hours which shall be completed each year as a condition of certificate renewal. The number of hours required, however, shall not exceed the minimum number of hours required by federal law or regulation.

SECTION 14. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

If, in the determination by the board, another state is deemed to have substantially equivalent certification or licensure requirements for real estate appraisers, an applicant who is certified or licensed under the laws of another state may obtain a certificate as a state certified real estate appraiser in this state upon terms and conditions determined by the board.

SECTION 15. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

Effective January 1, 1991, any person who is not a certified real estate appraiser who engages in an activity described in subsection (1) of Section 5 of this Act, shall be guilty of a class A misdemeanor. Each violation should be regarded as a separate offense.

SECTION 16. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

Sections 1 through 15 of this Act may be cited as the Real Estate Appraisal Voluntary Certification Act.

HB 594, AN ACT relating to cemeteries and funeral homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General may deny, suspend or revoke any license or levy fines not to exceed five hundred dollars ($500) or both or place the licensee on probation for up to twelve (12) months for any of the following causes:

(a) Obtaining a license through false statement or misrepresentation;

(b) Conducting or undertaking a substantial step toward conducting his business in an unfair, false, misleading or deceptive manner;

(c) Entry of a final judgment of conviction for a violation of KRS 367.934 to 367.974;

(d) Entry of a final judgment of conviction for any crime involving theft, fraud or deception; or

(e) Violating any of the provisions of this chapter or any lawful order, rule or regulation made or issued under the provisions of this chapter.

(2) The Attorney General shall, before denying, suspending or revoking a license or imposing fines, file a complaint alleging the grounds upon which the licensee may have his license denied, revoked or suspended or have fines imposed. A copy of the complaint, together with any exhibits, shall be served upon the defendant licensee at the licensee's last known address. The complainant shall show certification that there has been service by writing to the last known address. The answer shall be returned to the Attorney General's office within twenty (20) days of receipt of the complaint by the defendant licensee. Notice of all formal hearings shall be given at least twenty (20) days prior to the hearing date. Any and all other pleadings filed by the

Attorney General or the defendant licensee shall show that a copy has been furnished to the opposing party or parties. Witnesses may be subpoenaed and, with the exception of the Attorney General, the party requesting a subpoena shall pay the cost thereof. A court stenographer shall be present at a formal hearing and the cost thereof, including costs for a transcript, shall be paid by the requesting party.

(3) The licensee shall have the opportunity to be heard in person or by counsel in reference to the complaint filed. The hearing on the complaint shall be at the time and place the Attorney General prescribes.

(4) All hearings shall be conducted by a hearing officer appointed by the Attorney General who shall preside at the hearing and cause to be prepared a record of the hearing. The hearing officer shall prepare a report with recommended findings of fact and conclusions of law for submission to the Attorney General. The report shall be subject to revision by the Attorney General.

(5) If the Attorney General determines that any licensee is guilty of a violation of any of the provisions of this chapter, the license shall be denied, suspended or revoked or fines imposed. The Attorney General shall furnish to the licensee a definite statement of his findings of facts and his reason or reasons for the denial, suspension or revocation of the rights of the licensee or imposition of fines as the case may be. The findings of fact shall, if supported by substantial evidence, be conclusive; but any person aggrieved shall have the right of an appeal within ten (10) days after the entry of the order of denial, suspension or revocation.

(6) Any party aggrieved by the action of the Attorney General in denying, suspending or revoking a license or imposing fines may file in the office of the clerk of the Franklin Circuit Court an attested copy of the proceedings before the Attorney General, provided the aggrieved party shall first post a bond to secure the costs of the action in the sum approved by the clerk of the Circuit Court, with good and solvent surety. The Attorney General shall be a necessary party to all appeals. The Circuit Court clerk shall docket the case and shall immediately issue a summons for the Attorney General.

(7) The Attorney General shall, within twenty (20) days of receiving proper service of the summons and petition, file a response setting forth his position and filing a certified transcript of the record containing all testimony, pleadings, exhibits and orders, including the order to be reviewed. The court shall establish a schedule for the filing of briefs and oral argument if oral argument is requested by either party. Upon consideration of the record, the briefs and oral argument, the court shall enter judgment either upholding or reversing the Attorney General's order. If the Attorney General's order is reversed, the court shall remand the case to the Attorney General for further proceedings.

(8) Either party may appeal to the Court of Appeals from the judgment of the Circuit Court in accordance with the Rules of Civil Procedure.

HB 679, AN ACT relating to the Kentucky Athletic Commission and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 229.071 is amended to read as follows:

(1) No person shall conduct, or advertise a professional match without an annual license from the commission to conduct ***the*** [~~such~~] matches within a specified area and a permit to hold the specific match and the accompanying program of events at a specified location on a specific date.

(2) If, in the judgment of the commission, the financial responsibility, experience, character and general fitness of an applicant, including in the case of corporations its officers and stockholders, are such that the participation of ***the*** [~~such~~] applicant will be consistent with the public interest, convenience or necessity and with the best interests of boxing or wrestling generally and in conformity with the purposes of this chapter, the commission may grant an annual license in accordance with the provisions herein contained.

(3) The annual license fee shall be ***four*** [~~three~~] hundred dollars ***($400) if*** [~~($300) where~~] the professional matches are to be conducted within fifteen (15) miles of the city limits of a city or cities containing an aggregate population of two hundred thousand (200,000) or more and ***two*** [~~one~~] hundred dollars ***($200)*** [~~($100)~~] elsewhere. Each [~~such~~] license shall expire twelve (12) months after the date of issue.

(4) No person may be issued an annual license unless he has been a resident of Kentucky for sixty (60) days prior to the issuance thereof, or in the case of a corporation, unless it has qualified to do business in the Commonwealth.

(5) In determining which applicant may be granted a permit to conduct a professional wrestling match the commission shall give preference to Kentucky residents and domestic corporations.

Section 2. KRS 229.081 is amended to read as follows:

No person shall participate in a professional match in any of the ***following*** [~~hereinbelow~~] enumerated capacities without holding a license issued by the commission.

The fees for such licenses shall be:

Person	Fee
Announcer	***$20.00***[~~$5.00~~]
Auditor	***5.00*** [~~1.00~~]
Contestant	***25.00*** [~~5.00~~]
Doorman	***5.00*** [~~1.00~~]
Inspector	***20.00*** [~~5.00~~]
Judge (amateur)	1.00
Judge (professional)	***20.00*** [~~5.00~~]
Manager	***20.00*** [~~5.00~~]
Physician	***25.00*** [~~5.00~~]
Referee	***40.00***[~~25.00~~]
Second	2.00
Ticket selling agent	***5.00*** [~~1.00~~]
Timekeeper	***20.00*** [~~5.00~~]
Trainer	***20.00*** [~~5.00~~]

Licenses issued to referees and physicians shall expire twelve (12) months from date of issue and those issued to other officials on December 31 of the year in which they are issued. The commission may fix a schedule establishing the compensation to be paid to officials for participating in a professional match. ***The*** [~~Such~~] compensation shall be paid by the person conducting the match, and by no other person.

Section 3. Whereas, the Kentucky Athletic Commission is facing a budget deficit if additional license revenues are not secured, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 700, AN ACT relating to engineers and land surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the state Board of Registration for Professional Engineers and Land Surveyors;

(2) "Engineer" means a person who is qualified by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, to engage in the practice of professional engineering;

(3) "Engineering" includes any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and waters, and the review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems or projects with which the public welfare or the safeguarding of life, health or property is concerned, when such professional service requires the application of engineering principles and data. It does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, such as locomotive, stationary, marine or power plant operators, nor work embraced within the practice of land surveying;

(4) "Practice of engineering" includes all professional services included in subsection (3) of this section ***and the review of the product of these services,*** together with the negotiation or solicitation for engineering work on any project in this state, regardless of whether the persons engaged in that practice are residents of this state or have their principal office or place of business in this state or any other state or country, and regardless of whether they are performing one (1) or all of these duties, or whether they are performing them in person or as the directing heads of offices or organizations;

(5) "Land surveying" means any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of property boundaries and for the platting and layout of lands and subdivisions thereof, including the topography, alignment and grades of streets and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys;

(6) "Land surveyor" means and includes any person engaged in the practice of land surveying as herein defined, and shall include any public offer, or the holding out by any person to the public, to engage in the practice of land surveying;

(7) "Practice of land surveying" shall include the performance of any professional service included in subsection (5) of this section ***and the review of the product of these services, together with the negotiation or solicitation for land surveying work on any project in this state, regardless of whether the persons engaged in that practice are residents of this state or have their principal office or place of business in this state or any other state or country, and regardless of whether they are performing one (1) or all of these duties, or whether they are performing them in person or as the directing heads of offices or organizations.*** "Offer to practice" shall include performance of any act or acts directly related to land surveying, or any claim, oral or written, sign, letterhead, professional card, or other representation, on the part of any person representing himself to be a land surveyor or who holds himself out to the general public as possessing the ability and qualifications to perform land surveying within the terms of this section, KRS 322.200, 322.230 to 322.250, and 322.420 to 322.460;

(8) "Engineer in training" means a person who has passed a written examination in the fundamentals of engineering acceptable to the board; and

(9) "Land surveyor in training" means a person who has passed a written examination in the fundamentals of land surveying acceptable to the board.

Section 2. KRS 322.030 is amended to read as follows:

KRS 322.020 shall not apply to:

(1) The engaging in engineering as a pupil of or under the direction of a registered engineer, if such practice does not include responsible charge of design or supervision as a principal, or the engaging in land surveying as a pupil of or under the direction of a registered land surveyor, if such practice does not include responsible charge or supervision;

(2) The practice of officers and employees of the United States government while engaged in engineering or land surveying for the government;

(3) The practice of engineering [~~or land surveying~~] by a person on property leased or owned by the person unless the practice involves the public safety or public health; or to the performance of engineering that relates solely to the design or fabrication of manufactured products;

(4) An engineer or land surveyor engaged solely as an officer or employee of a privately owned public utility or of a corporation engaged in interstate commerce as defined in the Interstate Commerce Act (24 Stat. 379) as amended;

(5) A licensed architect who engages in engineering practice as an incident to the practice of his own profession;

(6) Any state or local building officials, fire marshals or fire inspectors, when acting in their official capacities.

Section 3. KRS 322.040 is amended to read as follows:

(1) A person shall qualify for registration as a professional engineer who is a graduate of an engineering curriculum of four (4) years or more approved by the board and with a specific record of an additional four

(4) years or more of progressive experience in engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering. Each applicant ***shall*** [~~must~~] pass a written examination in the fundamentals of engineering acceptable to the board and a written examination in the principles and practice of engineering acceptable to the board. The board may admit to the fundamentals of engineering examination applicants enrolled in the final year of an undergraduate engineering curriculum. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice engineering in this Commonwealth, provided the applicant is otherwise qualified. In counting years of experience, the board may give credit, not in excess of one (1) year, for satisfactory graduate study in engineering.

(2) Compliance with the requirements of any one (1) of paragraphs (a), (b) or (c) of this subsection shall qualify an applicant for registration as a land surveyor:

(a) Any person holding a certificate of registration to engage in the practice of land surveying issued to him by the proper authorities of any state, territory, possession of the United States, District of Columbia, or any foreign country, based upon requirements and qualifications appearing in his application, which, in the opinion of the board, are equal to, or higher than, the requirements required to be registered in this state to practice land surveying;

(b) Any graduate from an engineering or surveying curriculum of not less than four (4) years, at an institution approved by the board, followed by not less than four (4) years of progressive experience in land surveying under the direct supervision of a registered and practicing land surveyor, and who shall pass a written examination in the fundamentals of surveying, acceptable to the board, and a written examination in the principles and practices of land surveying, acceptable to the board; and

(c) Any person possessing ***either a high school diploma or its GED equivalent and having*** eight (8) or more years of progressive active experience in the practice of land surveying under the direct supervision of a registered and practicing land surveyor, and who shall pass a written examination in the fundamentals of surveying, acceptable to the board, and a written examination in the principles and practices of land surveying, acceptable to the board.

(3) In the consideration of the qualifications of applicants, engineering teaching may be construed as engineering experience.

(4) As it may apply to the experience qualifications for engineers or land surveyors, the satisfactory completion of each year of an approved curriculum in engineering or land surveying in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience required by subsections (1) and (2)(b) of this section. Graduation in a curriculum other than engineering or land surveying from a college or university of recognized standing may be considered as equivalent to two (2) years of experience required by subsections (1) and (2)(b) of this section, but no applicant shall receive credit for more than four (4) years of experience because of undergraduate educational qualifications.

(5) The mere execution as a contractor of work designed by an engineer or the supervision of the construction of such work as a foreman or superintendent shall not be considered practice in engineering.

(6) Any person having the necessary qualifications prescribed in subsections (1) and (2) of this section shall be eligible for registration although he may not be practicing his profession at the time of making his application.

Section 4. KRS 322.290 is amended to read as follows:

(1) The board shall:

(a) Administer this chapter;

(b) Adopt an official seal; [~~and~~]

(c) Provide suitable office quarters at its own expense***;***[~~.~~

~~(2) The board shall:~~]

(d)[~~(a)~~] Adopt and amend all bylaws and rules of procedure, consistent with the Constitution and laws of the state, and reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it;

(e)[~~(b)~~] Employ an executive director and any clerk or other assistants necessary for the proper performance of its work;

(f)[~~(c)~~] Employ any legal assistants that it considers necessary;

(g)[~~(d)~~] Make expenditures for any purpose that it considers reasonably necessary for the proper performance of its duties, including the expenses of the board's delegates to national conventions of and membership dues to the national council of engineering examiners or other affiliated national boards or societies;

(h)[~~(e)~~] Adopt and promulgate a code of professional practice and conduct, which shall be binding upon persons registered under this chapter, and which may be amended from time to time, and shall be made known to all registrants and applicants. The code of professional practice and conduct shall include, but not be limited to, the following objectives:

1. The protection of the public health, safety, and welfare;

2. The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

3. The avoidance of conflicts of interest;

4. The prohibition of solicitation or acceptance of engineering or land surveying work on any basis other than qualifications for the work offered;

5. The prohibition of association with any person engaging in illegal or dishonest activities; and

6. The limitation of professional service to the area of competence of the registrant.

[~~(f) Adopt appropriate standards of practice; and~~]

(i)[~~(g)~~] Bring, in its name, injunctive proceedings in the Franklin Circuit Court to enjoin any person, firm, association, corporation or combination thereof in violation of KRS 322.020.

(2) The board may:

(a) Adopt appropriate standards of practice; and

(b) Issue and promulgate administrative regulations, subject to approval by appropriate legislative committees, relating to the furtherance of continuing professional competence of practitioners registered under this chapter.

Section 5. KRS 322.400 is amended to read as follows:

(1) It shall be unlawful for the county clerk of any county, or any other public authority with whom the same may be required by law to be filed, to accept for filing, file or record any map, plat, survey or other document related to the practice of land surveying, unless there is affixed thereto the personal seal and signature of the registered land surveyor by whom, or under whose personal supervision and direction, ***the*** [~~such~~] map, plat, survey or other document was prepared.

(2) A plat shall be drawn of any survey which is made for the purpose of subdividing real property or transferring title to surveyed real property. The plat shall be recorded in the office of the county clerk for referral in future titles or descriptions. The county clerk shall not record the transfer instrument without also recording the plat.

Section 6. KRS 322.990 is amended to read as follows:

Any person who violates any provisions of this chapter shall be fined not less than one hundred dollars ($100) nor more than ***ten*** [~~one~~] thousand dollars ***($10,000)*** [~~($1,000)~~], or be imprisoned not more than three (3) months, or both.

The Committee Amendment No. 1 to HB 700 is as follows:

Amend printed copy of HB 700 on page 10, line 20, by deleting Section 5 in its entirety and on page 11, by renumbering Section 6 as Section 5.

HB 713, AN ACT relating to auctions and auctioneers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 330.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Apprentice auctioneer" means any person who is employed, directly or indirectly, by an auctioneer to deal or engage in any activity in subsection (2);

(2) "Auctioneer" means any person who offers, negotiates or attempts to negotiate a listing contract, sale, purchase or exchange of goods, chattels, merchandise, real or personal property, or of any other commodity which may lawfully be kept or offered for sale by or at public auction, or who sells the same at auction;

(3) "Board" means the board of auctioneers;

(4) "Goods" means any chattels, goods, merchandise, real or personal property, or commodities of any form or type which may be lawfully kept or offered for sale;

(5) "Persons" includes individuals, associations, partnerships and corporations, and the word "persons" shall also include the officers, directors and employees of a corporation*;*

(6) "Auction house" means any commercial establishment at which goods are regularly or customarily offered for sale or sold at public auction, or at which goods are customarily or regularly deposited and accepted, on consignment or otherwise, for sale at public auction at a fixed location, except those establishments which limit goods sold to thoroughbred horses or tobacco;

(7) "Auction house operator" means the individual principally or ultimately responsible for the operation of an auction house, or in whose principal interest the establishment is operated.

SECTION 2. A NEW SECTION OF KRS CHAPTER 330 IS CREATED TO READ AS FOLLOWS:

(1) Beginning January 1, 1991, it shall be unlawful for any person to act as an auction house operator, or to assume to act as one within the Commonwealth, without a license issued by the board.

(2) An auction house operator may be, but is not required to be a licensed auctioneer or apprentice auctioneer, unless he acts as one. However the license requirement for an auction house operator is in addition to any license requirement which may be imposed elsewhere in this chapter.

(3) If an auction house operator conducts and operates more than one auction house, only one auction house operator license shall be required of him, but the appropriate license issuance fee, the appropriate license renewal fee, and recovery fund fee shall be imposed for each location.

Section 3. KRS 330.050 is amended to read as follows:

(1) There is hereby created a board of auctioneers. The Governor shall appoint a board consisting of five (5) members, all of whom immediately prior to the date of their appointment have been residents of the Commonwealth of Kentucky for five (5) years, and four (4) whose vocation for a period of at least five (5) years has been that of an auctioneer. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Members to fill vacancies shall be appointed for the unexpired term.

(2) At no time shall there be more than three (3) members of the same political faith on the board. Whenever there is a vacancy on the board, the Kentucky Auctioneer Association shall recommend to the Governor at least three (3) names for each auctioneer vacancy and such appointment or appointments shall be made from the recommendations of the association.

(3) The board, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairman.

(4) Each member of the board shall receive the sum of one hundred dollars ($100) per day as full compensation for each day actually spent on the work of the board and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

(5) The board shall have full authority to employ, and discharge, any personnel, including counsel, as it may deem necessary to efficiently administer and enforce the provisions of this chapter, and it shall outline the duties and fix the compensation of such persons, provided that [~~such~~] compensation shall be comparable to the salaries paid other state employees, if any, which the board may deem to be doing similar work. The board shall obtain office space, furniture, stationery and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter. If any items deemed to be reasonably necessary by or which are required by the board are available through vendors under contract with the Commonwealth of Kentucky at less cost than if obtained otherwise, then the items shall be acquired pursuant to the contract. The board shall have full authority to obtain for its members, staff and employees complete insurance coverage, including, but not limited to, liability and errors and omissions insurance, so long as such insurance concerns the business of the board.

(6) All fees and charges collected by the board under the provisions of this chapter shall be paid into

the State Treasury through the Finance and Administration Cabinet and shall be credited to an agency-fund account for the Board of Auctioneers under the provisions of KRS 45.253 and shall be withdrawn or expended as provided in that section, if such payment, credit, withdrawal or expense provisions do not conflict with any provision of this chapter. The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, fines, penalties, and other income imposed under the provisions of this chapter and paid into the state treasury. The board shall be financially self-sustaining, and if funds permit it may underwrite, within its financial limitations, educational programs for the enlightenment and benefit of all auctioneers and apprentice auctioneers who have paid fees pursuant to this chapter.

(7) The board shall annually publish a list of the names and addresses of all auctioneers, [~~and~~] apprentice auctioneers ***and auction house operators*** licensed by it pursuant to this chapter. This list shall also contain the names of all persons whose licenses have been suspended or revoked within the preceding year, as well as any other information relative to the enforcement of the provisions of this chapter that the board may deem of interest to the public.

(8) The board may from time to time promulgate necessary ***administrative*** [~~rules and~~] regulations.

Section 4. KRS 330.060 is amended to read as follows:

(1) Auctioneer, [~~and~~] apprentice auctioneer ***and auction house operator*** licenses shall be granted only to persons who are found to be of good repute, trustworthy and competent to transact the business of an auctioneer***, an*** [~~or of any~~] apprentice auctioneer ***or an auction house operator*** in such a manner as to safeguard the interest of the public.

(2) The board is authorized to require information from every applicant to determine the applicant's honesty and truthfulness.

(3) In addition to proof of honesty, truthfulness and good reputation, an examination, conducted by the board or its authorized representative shall be held four (4) times each year, and an examination fee of seventy-five dollars ($75) shall be collected from each applicant for apprentice auctioneer and an examination fee of one hundred dollars ($100) shall be collected from each applicant for auctioneer ***and from each applicant for auction house operator***. Examination fees shall be nonrefundable and shall defray the expenses of processing the application and of conducting the examination. The ***examinations for auctioneer and apprentice auctioneer*** [~~examination~~] shall include questions on ethics, reading, writing, spelling, elementary arithmetic, elementary principles of land economics and a general knowledge of the statutes of Kentucky relating to the bulk sales law, deeds, mortgages, contracts of sale, agency, leases, auctions, brokerage and the provisions of this chapter. The examination for an auctioneer's license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer. ***The examination for auction house operator license shall include those areas of knowledge which, in the discretion of the board, are appropriate to those seeking to operate auction houses.***

(4) However, no examination shall be required for the renewal of any present or future license, unless such license has been revoked, suspended or is allowed to expire without renewal. In any of these cases, the board may, in its discretion, require the applicant to take and pass the written examination before a new license may be issued.

(5) The provisions of subsection (3) of this section requiring applicants to pass a written examination to obtain a license shall not apply to an auctioneer or apprentice auctioneer furnishing satisfactory proof to the board that he actively engaged in the auction business for a period of at least one (1) year prior to June 14, 1962, and that he has been the principal auctioneer in at least five (5) auctions of either real or personal property during this period of time. Such an applicant shall file his application and proof with the board no later than October 1, 1962, and the application and proof shall be accompanied by a bond and license fee in accordance with the provisions of this chapter; provided, however, that a nonresident tobacco auctioneer may qualify by December 1, 1962.

(6) The provisions of subsection (3) of this section requiring applicants for auction house operator to pass a written examination shall not apply to an auction house operator furnishing satisfactory proof to the board that he was actively engaged as an auction house operator at a fixed location for a period of at least two (2) years prior to January 1, 1991, at which at least twenty (20) auction sales were conducted during that period. Such an applicant shall file his application and proof with the board no later than February 1, 1991.

Section 5. KRS 330.070 is amended to read as follows:

(1) In addition to the other qualifications provided for by this chapter, every applicant for an auctioneer's license ***or an auction house operator's license*** shall be at least eighteen (18) years of age. In addition, but subject to the provisions of KRS 330.090, an applicant ***for an auctioneer's license*** shall possess a current

Kentucky apprentice auctioneer's license and shall have served a bona fide apprenticeship for a period of one (1) year as an apprentice auctioneer in Kentucky. An applicant for an auctioneer's license who has previously held an auctioneer's license which has been revoked, suspended or which has expired without renewal may request, and the board may grant, a waiver of the requirement of possession of a current apprentice license. In addition, effective on and after January 1, 1985, every applicant for auctioneer's license shall have been the recipient of an accredited high school diploma or the equivalent. Every application for a license, whether as an auctioneer***,*** [~~or~~] apprentice auctioneer, ***or auction house operator,*** shall be submitted on forms prepared by the board.

(2) Every applicant for ***any license issued under this chapter*** [~~an apprentice auctioneer's license~~] shall be at least eighteen (18) years of age. In addition to other requirements imposed by this chapter, the applicant shall furnish pertinent background data as outlined on the application forms furnished by the board.

(3) The issuance fee for each auctioneer's***,*** [~~and~~] apprentice auctioneer's ***and auction house operator's*** license shall be not more than fifty dollars ($50) and the annual renewal fee for each license shall be not more than fifty dollars ($50). All licenses shall expire on June thirtieth of each year. In the absence of any reason or condition which might warrant the refusal of the renewing of the license, and upon ***timely*** receipt of the written request of the applicant and the annual fee therefor, the board shall issue a new license for each ensuing year.

(4) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed conspicuously at all times in the office of the licensee. The certificate and pocket card of the apprentice auctioneer shall contain the name and address of the auctioneer under whose supervision he is employed.

(5) When any apprentice auctioneer is discharged or terminates his employment with the auctioneer for any reason, it shall be the immediate duty of the auctioneer to deliver or mail by certified mail, return receipt requested to the board the license of the apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter either directly or indirectly, under authority of his license, until the apprentice auctioneer receives a new license bearing the name and address of his new employer. No more than one (1) license shall be issued to any apprentice auctioneer for the same period of time.

(6) Notice in writing shall be given to the board by each licensee of any change of principal business location or of residence address within ten (10) days of such change. In the event of change of business location address the board shall issue a new license for the unexpired period. A change of business location without notification to the board within ten (10) days shall automatically suspend or revoke the license of such licensee, as may be ordered in the discretion of the board. Changing a business location or a residence location on its records shall entitle the board to collect three dollars ($3).

Section 6. KRS 330.090 is amended to read as follows:

(1) A nonresident may become an auctioneer or apprentice auctioneer by conforming to all the conditions of this chapter.

(2) In every instance the nonresident ***shall*** [~~must~~] pay the issuance fee, the annual renewal fee and file the bond required by this chapter.

(3) In addition, every nonresident applicant shall file an irrevocable consent that actions may be commenced against the applicant in any court of competent jurisdiction in the Commonwealth, by the service of any summons, process or pleadings authorized by law on the secretary of the board. The consent shall stipulate and agree that the service of such process, summons or pleadings on the secretary shall be taken and held in all courts to be as valid and binding as if actual service had been made upon the applicant in Kentucky. In case any summons, process or pleadings are served upon the secretary of the board, it shall be by duplicate copies, one of which shall be retained in the office of the board, and the other immediately forwarded by certified mail, return receipt requested to the last known business address of the applicant against which the summons, process or pleadings may be directed.

(4) In the event a nonresident applicant for principal auctioneer's license should reside in a state which does not prescribe qualifications for licensing as set out in KRS 330.095, the board may waive the apprenticeship requirement set out in KRS 330.070(1) provided that said nonresident non-reciprocal applicant resides so far away as to prevent his serving a bona fide apprenticeship under a licensed Kentucky auctioneer, and further provided that such applicant must exhibit to the board by affidavit or by other evidence as required by it that his experience and competency are sufficient to qualify him to take the examination for principal auctioneer.

(5) Any applicant for an auction house operator's license shall be a resident of the Commonwealth of Kentucky.

Section 7. KRS 330.095 is amended to read as follows:

Any nonresident applicant who is a licensed auctioneer or apprentice auctioneer in and who resides in another state or country where the qualifications prescribed at the time of licensing were, in the opinion of the board, equal to those prescribed in the Commonwealth of Kentucky at the date of application, and where reciprocal licensing privileges satisfactory to the board are granted to licensees and residents of the Commonwealth, may be granted a license without an examination. A fee of one hundred dollars ($100) in addition to the fees set out in KRS 330.090 shall be collected from each applicant meeting the above requirements. ***No auction house operator's license shall be obtained through reciprocity.***

Section 8. KRS 330.100 is amended to read as follows:

(1) Every auctioneer licensed under this chapter shall maintain a definite place of business in the Commonwealth, except as hereinafter provided, and shall erect and maintain a sign in a conspicuous place on the premises at or near the outside entrance to the principal office and all branch offices. The sign shall be written in clear and legible letters of not less than two (2) inches in height, and shall clearly show his name and indicate that he is an auctioneer. The sign shall be placed so that it can easily be observed and read by anyone entering the place of business; provided, however, that if the auctioneer is a nonresident, it is not necessary for him to maintain an active place of business in the Commonwealth if he maintains a place of business in the state where he was originally licensed.

(2) Every auction house operator licensed under this chapter shall maintain a definite place of business in the Commonwealth, and shall erect and maintain a sign in a conspicuous place on the premises at or near the outside entrance to all fixed locations. The sign shall be written in clear and legible letters of not less than two (2) inches in height, and shall contain the name of the auction house operator, the fact that he is licensed, and the name of the auction house, if different than the name of the operator. The sign shall be placed so that it can easily be observed and read by anyone entering the auction house.

Section 9. KRS 330.110 is amended to read as follows:

The board may suspend or revoke the license of an auctioneer***,*** [~~or~~] apprentice auctioneer ***or auction house operator*** for ***violating any of the provisions of this chapter, or for*** any of the following causes:

(1) Obtaining a license through false or fraudulent representation;

(2) Making any substantial misrepresentation;

(3) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(4) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, except his employer auctioneer;

(5) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his possession, commingling funds of others with his own, or failing to keep such funds of others in an escrow or trustee account;

(6) Paying valuable consideration to any person for services performed in violation of this chapter***, or procuring, permitting, aiding, or abetting any unlicensed person acting in violation of any of the provisions of this chapter***;

(7) Being convicted in a court of competent jurisdiction of this or any other state of a criminal offense involving moral turpitude or a felony;

(8) Violation of any ***administrative*** [~~rule or~~] regulation promulgated by the board;

(9) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer***,*** [~~or~~] apprentice auctioneer ***or auction house operator***;

(10) Any conduct of ***a licensee*** [~~an auctioneer~~] which demonstrates bad faith, dishonesty, incompetency or untruthfulness;

(11) Any other conduct that constitutes improper, fraudulent***,*** [~~or~~] dishonest ***or negligent*** dealings;

(12) Failing prior to the sale at public auction or prior to publicly advertising any goods for sale or offering any goods for sale to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which ***the*** [~~such~~] licensee receives the property for sale.

SECTION 10. A NEW SECTION OF KRS CHAPTER 330 IS CREATED TO READ AS FOLLOWS:

(1) No auction shall be advertised as "absolute" nor shall any advertising contain the words "absolute auction" or the word "absolute" or words with similar meaning nor shall any licensee offer or sell any goods unless:

(a) There are no liens or encumbrances on the goods, except current tax obligations, easements, or restrictions of record, in favor of any person, firm, or corporation other than the seller, or unless each and every holder of each and every lien and encumbrance, by execution of the auction listing contract, or otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have agreed to the unqualified acceptance of the highest bid for the property, without regard to the amount of the highest bid or the identity of the high bidder; or, alternatively, that a financially responsible person, firm, or corporation, by execution of the auction listing contract or by otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have absolutely guaranteed the forthwith and complete discharge and satisfaction of any and all liens and encumbrances immediately after the sale or at the closing, without regard to the amount of the highest bid received, or the identity of the high bidder; and

(b) There is the bona fide intention at the time of the advertising and at the time of the auction sale, to transfer ownership of the goods, regardless of the amount of the highest and last bid, to the high bidder, that intent existing without reliance on any agreement that any particular bid or bid level must be made or be reached, below which level the goods would not be transferred to the high bidder; and

(c) The auction listing contract contains a binding requirement that the sale be conducted without reserve, by specific inclusion of an acknowledgement by the seller that the seller, or anyone acting upon behalf of the seller, shall not bid at the absolute auction, or otherwise participate in the bidding process.

(2) Compliance with subsection (1) of this section shall not prohibit:

(a) A secured party or other lienholder who is not the seller from bidding at an absolute auction sale, providing that such bidding does not constitute, nor is it tantamount to the direct or indirect establishment or agreement to the establishment of a reserve price on the goods by the seller or by the auctioneer, or by anyone aiding or assisting, or acting upon behalf of, the seller or the auctioneer; or

(b) Any individual party to the dissolution of any marriage, partnership, or corporation from bidding as an individual entity apart from the selling entity, on goods being sold at auction pursuant to that dissolution; or

(c) The inclusion of non-misleading advertising of certain goods to be sold at "absolute auction" and the non-misleading advertising of certain goods to be sold at auction with reserve, within the same advertisement, or for sale at the same date and place, providing that advertisement shall make clearly apparent through equal or appropriate emphasis, which goods are being sold by each method.

(3) Any auction sale is, without requirement of announcement at any time, presumed to be with reserve unless the goods are in explicit terms put up at absolute auction. An auction without reserve means an absolute auction. An auction with reserve means the goods may be put up subject to the seller's confirmation or subject to a certain reserve price.

(4) (a) The provisions of this chapter shall not prohibit any licensee from bona fide bidding on his own behalf at any auction sale, whether absolute or with reserve, provided that his option to do so shall have been fully disclosed, including disclosure to the seller.

(b) Except as provided in subsection (2) of this section, the seller may not bid at an absolute auction, nor may anyone bid upon his behalf. No licensee shall knowingly receive such a bid by or on behalf of the seller at an absolute auction.

(c) Bids may be made by the seller, or upon the seller's behalf, at any auction with reserve, provided that full disclosure has been made that liberty for such bidding is retained. No licensee shall knowingly receive such a bid in the absence of full disclosure.

Section 11. KRS 330.120 is amended to read as follows:

The board may upon its own motion, and shall upon the verified written complaint of any person, investigate the actions of any auctioneer, [~~or~~] apprentice auctioneer, ***or auction house operator,*** or any person who assumes to act in ***any of those capacities*** [~~either capacity~~], if the complaint, or complaint together with other evidence presented in connection with it, makes out a prima facie case of a violation of this chapter.

Section 12. KRS 330.170 is amended to read as follows:

(1) Any auctioneer, [~~or~~] apprentice auctioneer ***or auction house operator*** who has had his license revoked shall not be issued another license for a period of five (5) years from the date of revocation.

(2) The revocation of an auctioneer's license shall automatically suspend every apprentice auctioneer's license granted to any person by virtue of his employment by the auctioneer whose license has been revoked. The apprentice auctioneer may retain his license, by transferring to the employment of another licensed auctioneer within thirty (30) days.

Section 13. KRS 330.180 is amended to read as follows:

The board shall adopt a seal by which it shall authenticate its proceedings. Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original. ***Public inspection of*** all records kept in the office of the board under the authority of this chapter shall be ***as permitted by applicable provisions relating to open records, and under guidelines as shall be prescribed by the board pursuant to those provisions*** [~~open to public inspection under such rules and regulations as shall be prescribed by the board~~].

Section 14. KRS 330.190 is amended to read as follows:

(1) No person, engaged in the business of or acting in the capacity of an auctioneer***,*** [~~or an~~] apprentice auctioneer ***or auction house operator*** shall bring or maintain any action in the courts of the Commonwealth for the collection of compensation for any services performed as an auctioneer***,*** [~~or~~] apprentice auctioneer ***or auction house operator*** without first alleging and proving that he was a duly licensed auctioneer***,*** [~~or~~] apprentice auctioneer ***or auction house operator*** at the time the alleged cause of action arose.

(2) No apprentice auctioneer shall have the right to institute a suit in his own name for the recovery of a commission, fee or compensation for services as an apprentice auctioneer, but any such act shall be instituted and brought by the licensed auctioneer employing ***an*** [~~such~~] apprentice auctioneer; provided, however, that this subsection shall not be construed so as to prevent a licensed apprentice auctioneer from suing his employing auctioneer for any compensation, fees or commissions due him from ***an*** [~~such~~] auctioneer.

Section 15. KRS 330.192 is amended to read as follows:

(1) (a) There is hereby created and established in the State Treasury the Auctioneer's Education, Research and Recovery Fund.

(b) In addition to the license fees provided for in KRS 330.070, upon renewal of every apprentice or principal auctioneer's license***, and every auction house operator's license*** as of July 15, 1982 and every regular annual renewal date thereafter, the board shall charge [~~each and~~] every licensee an amount not to exceed thirty dollars ($30) per year to be included in the Auctioneer's Education, Research and Recovery Fund. [~~Each and~~] Every original applicant for apprentice or principal auctioneer's license***, and every applicant for an auction house operator's license*** on and after July 15, 1982 shall likewise submit to the board an additional fee of thirty dollars ($30) to be deposited in the Auctioneer's Education, Research and Recovery Fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal date.

(c) In addition to the license fees provided for in KRS 330.070, the board, based upon its own discretion as to need, may assess each licensee upon renewal an amount equal to or less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant ***shall*** [~~must~~] pay the original amount of thirty dollars ($30), but upon renewal ***shall*** [~~will~~] pay the same fee as other licensees.

(2) The purposes of the Auctioneer's Education, Research and Recovery Fund shall be as follows:

(a) When a licensee has been duly found guilty of violating any one (1) or more of the provisions of KRS 330.110, or any one (1) or more of the ***administrative*** [~~rules and~~] regulations duly promulgated by the board, and upon the conclusion of a final order entered by the board or by the courts, if appealed, the board is authorized to pay to the aggrieved person or persons an aggregate amount not to exceed twenty thousand dollars ($20,000) against any one (1) licensee, provided that the licensee has refused to pay such claim within a period of twenty (20) days of entry of a final order and provided further that the amount or amounts of money in question are certain and liquidated.

(b) The board shall maintain a minimum level of two hundred thousand dollars ($200,000) for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the state employes' retirement system and the interest from said investments shall be deposited to the credit of the research and recovery fund, or, in the discretion of the board, to the agency fund account as set out in KRS 330.050(6). Sufficient liquidity, however, will be maintained so that there will be money available to satisfy any and all claims which may be processed through the board by means of administrative hearing as outlined in this chapter.

(c) The board, in its discretion, may use any [~~and all~~] funds in excess of the two hundred thousand dollar ($200,000) level, regardless of whether it is from the Auctioneer's Education, Research and Recovery Fund fees or accrued interest thereon, for any [~~or all~~] of the following purposes:

1. To carry out the advancement of education and research in the auction field for the benefit of those licensed under the provisions of this chapter and the improvement and making even more efficient the auction industry as such;

2. To underwrite educational seminars, caravans and other forms of educational projects for the use and benefit generally of auctioneer licensees;

3. To establish an auction chair or courses at Kentucky state institutions of higher learning for the purpose of making such courses available to licensees and the general public who may seek same on a college or university level;

4. To contract for a particular research project in the auction field for the Commonwealth of Kentucky;

5. To sponsor, contract for and to underwrite any and all other educational and research projects of a similar nature having to do with the advancement of the auction field in Kentucky;

6. To cooperate with associations of auctioneers and any [~~and all~~] other groups for the enlightenment and advancement of the auctioneer licensees of Kentucky; and

7. To increase the level of the Auctioneer's Education, Research and Recovery Fund above two hundred thousand dollars ($200,000);

8. To augment the regular trust and agency account of the board.

(3) (a) In the event that a licensee is found guilty of one (1) or more provisions of KRS 330.110 or ***of violating*** one (1) or more ***of the administrative*** [~~rules and~~] regulations of the board, and if the amount of the money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by a circuit court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or ***of the administrative*** [~~rules and~~] regulations has occurred and a final order has been entered.

(b) If such an order has been entered and the [~~auctioneer~~] license rights of the licensee have been finally adjudicated, then the local circuit court shall make a finding as to the monetary damages growing out of the aforesaid violation or violations.

(c) When a final order has been entered by the Circuit Court, [~~or~~] Court of Appeals ***or Supreme Court***, and upon certification to the board, the aggrieved party or parties shall be paid such amount or amounts in the aggregate not to exceed twenty thousand dollars ($20,000) by the board, and the [~~auctioneer's~~] license held by the licensee against whom the claim was made by the aggrieved party shall be suspended at least until such time as the licensee has reimbursed the Auctioneer's Education, Research and Recovery Fund for all amounts paid to the aggrieved party due to the violation of the licensee.

(d) When, upon the final order of the court, the board has paid from the Auctioneer's Education, Research and Recovery Fund any sum to the aggrieved party, the board shall be subrogated to all of the rights of the aggrieved party to the extent of the payment and the aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission.

(e) Any funds in excess of the two hundred thousand dollar ($200,000) level and which are not being currently used, may be invested and reinvested as set forth in subsection (2)(b) of this section, or, in the discretion of the board, may be utilized for any of the purposes enumerated in subsection (2)(c) of this section.

(f) All the claims for monetary damages or relief from the Auctioneer's Education, Research and Recovery Fund must be made in writing on a proof of loss form submitted to the board within six (6) months of the act of the auctioneer giving rise to the loss. Failure to file such claims within the six (6) month period shall bar the claim. Additional evidence will be submitted by the claimant if required by the board.

(g) Notwithstanding any other provisions of this chapter, no unreimbursed amount greater than twenty thousand dollars ($20,000) shall be paid by the board on account of any one (1) licensee, no matter over how long a time, or for how many claims, and no matter what the number of claimants be or the size of such claims, individually or in the aggregate. Should the licensee reimburse the fund for all amounts paid, then future claims timely filed with the board concerning different matters may be received pursuant to this section.

(h) No claims shall be approved under this section for amounts which, in the aggregate, exceed the maximum payable on account of any one (1) licensee in effect at the time of the act or acts of the licensee giving rise to the claims, except to the extent of said maximum. Statutory increases in the maximum set out in this section do not apply retroactively.

(4) All categories of licensees under this chapter, including auctioneers, apprentice auctioneers, and

auction house operators are covered under the provisions of this section for the benefit and protection of the public.

(5) This section is not intended to substitute for, circumvent, or duplicate other remedies existing at law or otherwise for claimants or potential claimants, but constitutes a last resort for aggrieved persons who would not, but for the provisions of this section, be able to recover their losses by any other means available. The board shall have full discretion to require that claimants exhaust all other remedies prior to proceeding under this section, including, but not limited to, the remedy of obtaining a judgment by all diligent and appropriate means.

Section 16. KRS 330.200 is amended to read as follows:

No municipality or other political subdivision shall regulate, tax or license auctioneers, [~~or~~] apprentice auctioneers, ***or auction house operators,*** except for ***those administrative*** [~~such~~] regulations, taxes or licenses which may be reasonably imposed or required among all persons engaged in business generally.

The Committee Amendment No. 1 to **HB 713** is as follows:

Amend printed copy of **HB 713** on page 2, line 6, after "***horses,***" by inserting the following "***or any interests therein, including but not limited to shares and seasons,***".

HCR 76, A CONCURRENT RESOLUTION urging restaurants to find alternatives to non-biodegradable packaging and directing the Legislative Research Commission to study the use of non-biodegradable packaging in restaurants.

WHEREAS, the capacity of solid waste landfills is decreasing and the costs of disposing of solid waste in landfills is increasing; and

WHEREAS, the commingling of the materials disposed of in solid waste landfills has been known to create contaminants which can leak from a landfill; and

WHEREAS, the packaging materials which are preferred by restaurants, especially fast food restaurants, are not easily recycled, contribute to the significant reduction of landfill space and when improperly thrown away do not easily degrade;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That restaurants are urged to find alternatives to the use of non-biodegradable packaging in order that by July 15, 1992 the use of non-biodegradable packaging can be eliminated.

Section 2. That the use of non-biodegradable packaging in restaurants be studied by the Legislative Research Commission and that recommendations for any statutory changes encouraging the use of biodegradable packaging be submitted to the 1992 General Assembly of the Commonwealth of Kentucky.

Section 3. Legislative Research Commission staff services to be utilized in completing the study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Substitute to **HCR 76** is as follows:

HCR 76, A CONCURRENT RESOLUTION urging restaurants to find alternatives to non-biodegradable packaging and directing the Legislative Research Commission to study the use of non-biodegradable packaging in restaurants.

WHEREAS, the capacity of solid waste landfills is decreasing and the costs of disposing of solid waste in landfills is increasing; and

WHEREAS, the comingling of the materials disposed of in solid waste landfills has been known to create contaminants which can leak from a landfill; and

WHEREAS, many current packaging materials which are used by Kentucky businesses are not easily recycled and contribute to the significant reduction of landfill space;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That Kentucky businesses are urged to find alternatives to the use of non-recyclable packaging in order that landfill space may be preserved.

Section 2. That the use of non-recyclable packaging by Kentucky businessess be studied by the Legislative Research Commission and that recommendations for any statutory changes encouraging the use of recyclable packaging be submitted to the 1992 General Assembly of the Commonwealth of Kentucky.

Section 3. Legislative Research Commission staff services to be utilized in completing the study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Title Amendment to **HCR 76** is as follows:

Amend printed copy of **HCR 76** by deleting the original title and inserting in lieu thereof:

A CONCURRENT RESOLUTION urging Kentucky businesses to find alternatives to non-recyclable packaging and directing the Legislative Research Commission to study the use of non-recyclable packaging in Kentucky.

The Committee on Business Organizations and Professions reported **HB 115** with Committee Substitute 1 and Committee Substitute 2 attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute 2 to **HB 115** is as follows:

HB 115, AN ACT relating to alcoholic beverage control and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The positions of alcoholic beverage control investigator, alcoholic beverage control field representative, alcoholic beverage control agent, and alcoholic beverage control officer shall be considered as hazardous duty positions within the meaning of Section 2 of this Act. The department shall make the employer contributions for participation in the hazardous duty retirement program as required by KRS Chapter 61.

Section 2. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, [~~(~~]including the ***positions*** [~~position~~] of probation and parole officer***, alcoholic beverage control investigator, control field representative, control agent, and control officer***[~~)~~], active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. ***This*** [~~Such~~] rate ***shall*** [~~will~~] be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) ***If*** [~~In the event~~] the employer participated in the system prior to electing hazardous duty coverage, then ***the*** [~~said~~] employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employee may make the lump sum payment in his own behalf. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the Distilled Spirits Unit, the fees for which shall be:

(1) Distiller's license, per annum	*$1,700*[~~$1,500~~].00
(2) Rectifier's license, per annum	$1,500.00
(3) Blender's license, per annum	$1,500.00
(4) Vintner's license, per annum	$ 500.00
(5) Small winery license, per annum	$ 250.00
(6) Wholesaler's license, per annum	*$1,700*[~~$1,500~~].00
(7) Retail package license, per annum:	
(a) In counties containing cities of the first class	$ 600.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(d) In counties containing cities of the fourth class	$ 300.00
(e) In all other counties	$ 200.00
(8) Retail drink license, per annum:	
(a) In counties containing cities of the first class	$ 800.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(d) In counties containing cities of the fourth class	$ 300.00
(9) Transporter's license, per annum	$ *100*[~~25~~].00
(10) Dining car license, per annum	$ 50.00
(11) Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12) Special industrial alcohol license, per annum	$ 25.00
(13) Special nonindustrial alcohol license, per annum	$ 25.00
(14) Special agent's or solicitor's license, per annum	$ *35*[~~20~~].00
(15) Special storage or warehouse license, per annum	$ 100.00

(16) Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).

(17)	Special private club license, per annum	$ 150.00
(18)	Special Sunday retail drink license	$ 300.00
(19)	Nonresident, special agent or solicitor's license, per annum	$ ***35***[~~20~~].00
(20)	Transport permit, nonresident license, per annum	$ ***100***[~~25~~].00
(21)	Through transporter's license, per annum	$ ***100***[~~25~~].00
(22)	Freight forwarder's license, per annum	$ ***100***[~~25~~].00
(23)	Supplemental bar license:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(24)	Restaurant wine license, per annum:	
(a)	New applicants	$ 300.00
(b)	Renewals	$ 200.00

(25) ***Any*** [~~Such~~] other special license ***that*** [~~as~~] the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

(26) In the fiscal year beginning July 1, 1990, the board may use up to seventy-five percent (75%) of all annual license fee increases to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act. Thereafter, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

Section 4. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the Malt Beverages Unit, the fees for which shall be:

(1)	Brewer's license, per annum	$1,500.00
(2)	Microbrewery license, per annum	$ 250.00
(3)	Distributor's license, per annum	$ 200.00
(4)	Retailer's license per annum:	
(a)	New applicants	$ 200.00
(b)	Renewals	$ 75.00
(5)	Dining car license, per annum	$ 100.00
(6)	Transporter's license, per annum	$ ***100***[~~25~~].00
(7)	Special temporary license, per month or part of month	$ 12.50
(8)	Special off-premises storage license, per annum	$ ***100***[~~25~~].00
(9)	Distributor's storage, per annum	$ 50.00
(10)	Special beer transporter's license, per annum	$ ***100***[~~25~~].00

(11) ***Any*** [~~Such~~] other special licenses ***that*** [~~as~~] the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection (11) may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

(12) In the fiscal year beginning July 1, 1990, the board may use up to seventy-five percent (75%) of all annual license fee increases to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act. Thereafter, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

Section 5. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. ***In this case***[~~; Provided~~], however, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, ***four hundred dollars ($400)*** [~~one hundred dollars ($100)~~] per day; ***any license which by its terms authorize the sale of liquor by the drink, fifty dollars ($50),*** [~~retail drink liquor licensees, twenty-five dollars ($25.00)~~] per day; retail package liquor licensees, ***fifty dollars ($50)*** [~~twenty-five dollars ($25.00)~~] per day; retail beer licensees, ***twenty-five dollars ($25.00)*** [~~ten dollars ($10.00)~~] per day; all remaining licensees, ten dollars ($10.00) per day.

(2) Payments in lieu of suspension collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

Section 6. Whereas, distilled spirits, wine, and malt beverage licenses are granted at the beginning of the fiscal year, an emergency is declared to exist and this Act shall become effective July 1, 1990.

The Committee on Education reported **HB 444**, **HB 556** with Committee Substitute attached thereto, **HB 595** with Committee Amendment attached thereto, **HB 653** with Committee Substitute attached thereto, and **SB 78** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 444, AN ACT relating to the Kentucky School for the Deaf and the Kentucky School for the Blind.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.032 is amended to read as follows:

(1) The Kentucky Department of Education, with assistance from the Kentucky Department of Personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in the state for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five (185) day school year. Salaries for extended employment shall be computed at the same rate as the regular pay.

(2) The Kentucky Department of Education, with assistance from the Kentucky Department of Personnel, shall adopt a salary schedule for teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320.

(3) Certified teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

(4) The Kentucky Department of Education, with assistance from the Kentucky Department of Personnel, shall adopt a salary schedule for administrators at the Kentucky School for the Deaf and the Kentucky School for the Blind which will provide for equitable salaries between teachers and administrators. The salary schedule,

which shall be computed prior to July 1 of each year, shall be based on two hundred sixty (260) days per year.

HB 556, AN ACT relating to community colleges.

WHEREAS, Prestonsburg Community College as a part of the University of Kentucky Community College System, provides quality higher and adult educational opportunities to the citizens of Pike County; and

WHEREAS, expanded education offerings are needed to fulfill the needs of the citizens of Pike County; and

WHEREAS, Prestonsburg Community College has established offices in Pikeville;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The location of the community college in the Big Sandy Valley shall be designated as Prestonsburg-Pikeville. The service area of the Pikeville office of Prestonsburg Community College shall include Pike County in its entirety.

(2) Existing course offerings shall be expanded as necessary, to respond more fully to the higher and adult educational needs of the citizens of the local area as identified by the Prestonsburg-Pikeville advisory board.

(3) The University of Kentucky Community College system may use private or state funds to purchase, renovate, and otherwise make available physical facilities in the Pikeville area conducive to educational purposes.

(4) The General Assembly shall not be required to provide funding for any expansion of duties or offerings by the Prestonsburg-Pikeville Community College.

Section 2. KRS 164.591 is amended to read as follows:

A community college shall be maintained in each of the following locations: Ashland, Carrollton, Cumberland, Elizabethtown, Glasgow, Henderson, Hopkinsville, Madisonville, Owensboro, Prestonsburg-***Pikeville***, Somerset, Blackey-Hazard, Jefferson County and Mason County.

The Committee Substitute to **HB 556** is as follows:

HB 556, AN ACT relating to community colleges.

WHEREAS, Prestonsburg Community College as a part of the University of Kentucky Community College System, provides quality higher and adult educational opportunities to the citizens of Pike County; and

WHEREAS, expanded education offerings are needed to fulfill the needs of the citizens of Pike County; and

WHEREAS, Prestonsburg Community College has established offices in Pikeville;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The community college in the Big Sandy Valley is designated as Prestonsburg Community College. The service area of Prestonsburg Community College shall include Pike County in its entirety.

(2) Course offerings in Pike County shall be expanded as necessary, to respond more fully to the higher and adult educational needs of the citizens of the area.

(3) The University of Kentucky Community College system may use private or state funds to purchase, renovate, and otherwise make available physical facilities in the Pike County area conducive to educational purposes.

HB 595, AN ACT relating to sex equity in educational programs and activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

For purposes of this Act:

(1) "Educational institution" means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one (1) school, college, or department which are administratively separate units, the term means each school, college, or department.

(2) "Funding recipient" means any department, agency, special purpose district, instrumentality of state or local government, college, university, postsecondary institution, public system of higher education, local educational agency, system of vocational education, corporation, partnership, private organization or sole proprietorship receiving state financial assistance for any education program or activity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving state financial assistance, except that:

(a) In regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(b) This section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of the organization;

(c) This section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marines;

(d) In regard to admissions, this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one (1) sex;

(e) This section shall not apply to membership practices of a social fraternity or social sorority which is exempt under Section 501 (a) of the federal Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at an institution of higher education, or of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are exempt under Section 501(a) of the federal Internal Revenue Code, the membership of which has traditionally been limited to persons of one (1) sex and principally to persons of less than nineteen (19) years of age;

(f) This section shall not apply to any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or any program or activity of any secondary school or educational institution specifically for the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or the selection of students to attend any such conference;

(g) This section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one (1) sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

(h) This section shall not apply to any scholarship of other financial assistance awarded by an institution of higher education to any individual because such individual has received the award in any pageant in which the attainment of the award is based upon a combination of factors related to the personal appearance, poise, and talent of the individual and in which participation is limited to individuals of one (1) sex only, so long as the pageant is in compliance with other nondiscrimination provisions of state and federal law.

(2) Nothing contained in subsection (1) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one (1) sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, state, section, or other area. However, nothing in this subsection shall be construed to prevent the consideration in any hearing or proceeding under this Act of statistical evidence tending to show that an imbalance exists with respect to the participation in, or receipt of the benefits of, any program or activity by the members of one (1) sex.

SECTION 3. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

Each state department and agency which is empowered to extend state financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, shall effectuate the provisions of Section 2 of this Act with respect to such program or activity by promulgating administrative regulations of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. Compliance with any requirement adopted pursuant to this section shall be effected:

(1) By the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which the noncompliance has been found; or

(2) By any other means authorized by law.

However, no action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the chief officer of the state department or agency shall file with the committees of the House of Representatives and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty (30) days have elapsed after the filing of such report.

SECTION 4. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

Any final action taken by a department or agency pursuant to Section 3 of this Act shall be subject to such judicial review as may otherwise be provided by law for similar action taken by the department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to Section 3 of this Act, any funding recipient aggrieved may obtain judicial review of the action in the Franklin Circuit Court.

SECTION 5. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

No person shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of state financial assistance for any education program or activity. However, nothing herein shall be construed to require any institution to provide any special services to a person because of his blindness or visual impairment.

SECTION 6. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which state financial assistance is extended by way of a contract of insurance or guaranty.

SECTION 7. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

Nothing contained in this Act shall be construed to prohibit any educational institution receiving funds under this Act from maintaining separate living facilities for the different sexes.

The Committee Amendment No. 1 to **HB 595** is as follows:

Amend printed copy of **HB 595** on page 4, line 18 after the word "***any***" delete "***federally***" and insert in lieu thereof "***state***";

On page 7, lines 2-10, delete in their entirety;

On page 7, line 11, after the first "***SECTION***" delete "***6***" and insert "***5***" in lieu thereof; and

On page 7, line 17 after the first "***SECTION***" delete "***7***" and insert "***6***" in lieu thereof.

HB 653, AN ACT relating to teachers' retirement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716 and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to ***members***.[~~teachers~~];

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) ***"Member"*** [~~"Teacher"~~] means the Superintendent of Public Instruction, principal assistants to the Superintendent of Public Instruction and all division directors in the state Department of Education, and any regular or special teacher, or professional employee occupying a position requiring certification by the state Department of Education or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state Department of Education, other public education agencies as created by the General Assembly, and [~~such~~] members of the administrative staff of the Teachers' Retirement System of the state of Kentucky as the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education ***and*** [~~and/or~~] other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, ***Kentucky Academic Association*** and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of ***these*** [~~such~~] employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to [~~such~~] persons in the employ of the associations on or subsequent to July 1, 1972;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of ***the*** [~~such~~] system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any ***member*** [~~teacher~~] not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employee contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency, or for employees of school districts, the highest percentage increase received by members on any one rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This [~~Such~~] limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and ***this*** [~~such~~] increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, including any deductions, or any amount agreed upon by the member and the employer as an alternate form of remuneration to the member for services performed;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System or who made [~~such~~] contributions in the next preceding fiscal year, or for whom picked up employee contributions are currently being made or for whom ***the*** [~~such~~] contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment or appeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim ***these contributions*** [~~the same~~] shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, ***survivor benefits, and death benefits,*** including any sums appropriated for meeting unfunded liabilities, excluding money assigned to the expense fund, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement ***or death*** of a member [~~by reason of service or disability~~] there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance ***and provide for benefits under KRS 161.520, 161.525, and 161.655***;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances ***and benefits provided under KRS 161.520, 161.525 and 161.655. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member***;

(5) The [~~survivor, death and~~] medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS [~~161.520, 161.525, 161.655 and~~] 161.675. One and ***five tenths percent (1.5%)*** [~~eighty-one hundredths percent (1.81%)~~] of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from state appropriation. [~~In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund, and the allowance reserve fund, such amounts as may be held in those funds for the account or benefit of the member.~~] All claims for benefits under KRS [~~161.520, 161.525, 161.655 and~~] 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to ***these*** [~~such~~] funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at the beginning of a fiscal year, transfer from the guarantee fund to the [~~survivor, death and~~] medical insurance fund an amount not to exceed two percent (2%) of the income earned from investments during the immediate past year.

Section 3. KRS 161.440 is amended to read as follows:

At the end of each fiscal year the board of trustees shall assign from the guarantee fund interest at the rate of three percent (3%) to the teachers' savings fund, the state accumulation fund and the allowance reserve fund, and, effective July 1, 1978, interest at a rate of interest not to exceed the average yield on fixed income security investments for the immediate past year to the [~~survivor, death and~~] medical insurance fund. The amounts so allowed shall be due and payable to the funds and shall be annually credited thereto by the board of trustees from interest and other earnings on money of the retirement system.

Section 4. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new ***members*** [~~teachers~~], all present teachers and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29. The Board of Trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership. [~~No person without previous Kentucky service who was age sixty-five (65) or older on July 1, next preceding employment, may become a member of the Teachers' Retirement System.~~]

(2) Service credit shall be forfeited upon withdrawal. If a ***member*** [~~teacher~~] again enters service it shall be as a new ***member*** [~~teacher~~], except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain [~~such~~] service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions; or

(d) When a ***member*** [~~teacher~~], having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years.

Upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of ***these*** [~~such~~] funds at any time. ***The*** [~~Such~~] terminated service shall be reinstated, if not withdrawn by the member, in the event that the ***member*** [~~teacher~~] returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the ***member*** [~~teacher~~] return all of his accumulated contributions with regular interest, including any payments made by the ***member*** [~~teacher~~] to the state accumulation fund, but the ***member*** [~~teacher~~] shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the [~~survivor, death and~~] medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for social security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form. ***Requests for a refund of contributions shall also include certification that the school board acted upon and approved the member's termination of employment.***

(7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the ***member*** [~~teacher~~] to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the ***member*** [~~teacher~~] or to contributions made to the [~~survivor, death and~~] medical insurance fund.

(8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the state police retirement system, or the judicial retirement system may use service, under ***that*** [~~such~~] retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 5. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive credit for active service rendered in the armed forces of the United States, subject to regulations established by the board of trustees. ***Military*** [~~Such~~] service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of ***military*** [~~such~~] service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) ***No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.***

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on ***this military*** [~~such~~] service, may not receive credit for any ***military*** [~~such~~] service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and ***after this date*** [~~thereafter~~].

(4)[~~(3)~~] A member receiving retirement credit for active duty in the armed services of the United States shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the survivor, death and medical insurance fund. ***These*** [~~Such~~] contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting ***this*** [~~such~~] service.

Section 6. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit, service rendered out of state, not to exceed ten (10) [~~such~~] years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase ***this*** [~~such~~] service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided ***this*** [~~such~~] service was rendered after January 1, 1984. In the event ***this*** [~~such~~] service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for ***this*** [~~such~~] service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. ***The*** [~~Such~~] payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. ***This*** [~~Such~~] credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the state of Kentucky may present ***this*** [~~such~~] service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no [~~such~~] service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by ***a*** [~~such~~] public institution or governmental agency. ***This*** [~~Such~~] service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use ***this*** [~~such~~] service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of ***eight percent (8%)*** [~~seven and eighty-four hundredths percent (7.84%)~~] for each year so used. ***These*** [~~Such~~] payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and ***after this date*** [~~thereafter~~], shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

Section 7. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred twenty dollars ($220) per month when the surviving widow or widower's total income from all sources does not exceed six thousand dollars ($6,000) per year or five hundred dollars ($500) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life except ***as provided in subsection (6) of this section*** [~~that eligibility for this benefit shall cease upon remarriage~~]. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be one hundred eighty dollars ($180) per month in the case of one (1) [~~such~~] child, three hundred ten dollars ($310) per month in the case of two (2) [~~such~~] children, three hundred sixty dollars ($360) per month in the case of three (3) [~~such~~] children, and four hundred dollars ($400) per month in the case of four (4) or more [~~such~~] children. Benefits under this subsection shall apply ***in addition to*** [~~notwithstanding~~] benefits which may be payable under subsections (1) and (3) of this section.

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of ***the*** [~~such~~] child or until ***the*** [~~such~~] time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(12). Benefits under this subsection shall apply ***in addition to*** [~~notwithstanding~~] benefits which may be payable under subsections (1) and (2) of this section [~~and shall be in addition to such benefits~~].

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19) if a full-time student in high school or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems ***this*** [~~such~~] action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized ***the*** [~~such~~] payments. The board shall formulate and adopt necessary administrative regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of ***the*** [~~such~~] accumulated contributions.

(10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 8. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of ***twenty-seven (27)*** [~~thirty (30)~~] years of service prior to retiring for disability, except as provided in KRS 161.661(6), the spouse, if named as the beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided under KRS 161.520, an annuity actuarially equivalent to the annuity that would have been paid to the member had retirement for service been effective on the day the member retired for disability. In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance. There shall be a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, ***1988*** [~~1984~~], and to surviving spouses of members who die on or after July 1, 1984.

Section 9. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as beneficiary of the member's retirement account or in the absence of an eligible spouse a legal dependent of ***the*** [~~said~~] member, if named as beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or ten (10) years certain payment. A spouse may receive the annuity provided herein at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520, however, a legal dependent, other than a spouse, may not receive ***these*** [~~such~~] payments if children have qualified for benefits under that section.

(2) A spouse or legal dependent qualifying for an annuity under subsection (1) of this section may defer ***the*** [~~such~~] payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his death, who had a minimum of ***twenty-seven (27)*** [~~thirty (30)~~] years of service, the spouse, if named as the beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

Section 10. KRS 161.545 is amended to read as follows:

[~~(1)~~] Members may make contributions and receive service credit for substitute, part-time or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for ***this*** [~~such~~] leave as provided in administrative regulations adopted by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked up pursuant to KRS 161.540(2).

[~~(2) Active members who have been granted leaves of absence since July 1941, for reasons of health or to improve their educational qualifications, and did not make contributions to the Teachers' Retirement System may make contributions prior to July 1, 1989, under the following conditions:~~

~~(a) Such leave shall be verified by a copy of the board of education minutes which granted the leave of absence;~~

~~(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence with interest at the rate of eight percent (8%) compounded annually from the beginning of the school year next following the year of leave, and by depositing in the state accumulation fund an amount equal to the above sum; and~~

~~(c) The member may receive credit for no more than two (2) years under the provisions of this subsection.~~

~~(3) A teacher who has been out of the teaching profession, but not on an official leave of absence, for the purpose of obtaining a masters degree may purchase up to one (1) year of service credit in the Teachers' Retirement System. Credit purchased shall not exceed the time the teacher is enrolled in a masters program. Leave for such purpose shall be verified by a copy of the teacher's college transcript.~~]

Section 11. KRS 161.585 is amended to read as follows:

(1) Each member's account shall be administered in a confidential manner and specific data regarding a member shall not be released for publication unless authorized by the member; however, the board of trustees may release member account information to the employer or to other state and federal agencies as it deems necessary.

(2) Medical records which are included in a member's file maintained by the Teachers' Retirement System are confidential and shall not be released unless authorized by the member in writing or as otherwise provided by law.

Section 12. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years~~,~~ of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number; or

(c) Completion of twenty-seven (27) years of Kentucky service. ***Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement.***

(2) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years, may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects, he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for ***in this subsection*** [~~above~~] if ***the*** [~~such~~] member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees ***Retirement System*** or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a)***,*** [~~and~~] (b) ***and (c)*** of this section, provided ***the*** [~~such~~] service is subsequent to July 1, 1956.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees.

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 13. KRS 161.603 is amended to read as follows:

(1) Any ***member*** [~~teacher~~] retired by reason of service [~~and less than age seventy~~] may waive his annuity and return to regular employment in a ***position*** [~~Kentucky public elementary or secondary school or state college or university~~] covered by the ***Teachers' Retirement*** System. ***The member*** [~~Such teacher~~] shall receive no annuity payments while [~~so~~] employed ***in a covered position***, but shall continue to be covered by the system's hospital and medical insurance program and his estate shall continue to be eligible for death benefits as

provided in KRS 161.655. [~~He shall be returned to the annuity rolls as of the first of the month next following the month in which the last teaching was performed. A teacher who waives his annuity and teaches for eight (8) months or more during a school term shall be returned to the annuity rolls as of July 1 following the close of such school term. Such person shall not be considered a member of the retirement system, and no contributions shall be made for him.~~] Service subsequent to retirement shall not be used to improve an annuity, except as provided in ***subsections*** [~~subsection~~] (2) ***and (3) of this section*** [~~below~~].

(2) Any ***member*** [~~teacher~~] who waives regular annuity benefits and returns to teaching ***or covered employment*** [~~for at least two (2) consecutive regular school years~~] shall be entitled to make contributions on the salaries received for ***this*** [~~such~~] service and have their retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1)(a) less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by post-retirement employment nor shall dependents and spouses of ***the*** [~~such~~] members become eligible for benefits under KRS 161.520, 161.525 and 161.661 because of post-retirement employment.

(3) When a member returns to full-time teaching or covered employment as provided in subsection (2) of this section, the employer is required to withhold and remit regular retirement contributions. The member must be employed full-time for at least one (1) consecutive contract year to be eligible to improve an annuity. The member will be returned to the annuity rolls on July 1 following completion of the contract year or on the first day of the month following the month of termination of service if full-time employment exceeds one (1) consecutive contract year. Any discounts applied at the time of the original retirement due to service may be reduced or eliminated due to additional employment if full-time employment is for one (1) contract consecutive year or longer.

Section 14. KRS 161.605 is amended to read as follows:

(1) Retired ***members*** [~~teachers~~] may ***perform*** [~~do~~] part-time or substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation for ***this teaching*** [~~same~~] without reduction in retirement annuities. The board of trustees by regulation may establish fractional equivalents of a day of teaching service.

(2) Retired members may be employed part-time in a non-teaching capacity in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation for this employment without reduction in retirement annuities. Retired members may not be employed in excess of this one hundred (100) day period in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. The board of trustees shall determine if employment in a non-teaching position qualifies for an exemption under this subsection.

Section 15. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For retirements effective January 1, 1984, and thereafter, the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by administrative regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%); and

(c) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than ***two hundred ten dollars ($210)*** [~~one hundred~~

~~ninety dollars ($190)~~] effective July 1, ***1990*** [~~1988~~], and two hundred ***twenty*** dollars ***($220)*** [~~($200)~~] effective July 1, ***1991*** [~~1989~~], multiplied by the service credit years of the ***member*** [~~teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the Teachers' Retirement System shall receive a monthly benefit of less than seventy-five dollars ($75)~~]. ***These*** [~~The above~~] minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection. Eligibility for the benefits provided under this subsection shall be determined after applying any other cost-of-living adjustments provided by statute to the June, ***1990*** [~~1986~~] and June, ***1991*** [~~1987~~] annuity payment of the member.

(4) The minimum provided in this section shall apply in the case of ***members*** [~~teachers~~] retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the ***member*** [~~teacher~~] and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***1990*** [~~1988~~], the monthly allowance of each member retired on or before July 1, ***1989*** [~~1987~~], and each recipient of a retirement option of ***the*** [~~such~~] retired ***member*** [~~members~~] shall be increased in the amount of ***four*** [~~two~~] percent ***(4%)*** [~~(2%)~~] of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand ***two hundred fifty*** dollars ***($1,250)*** [~~($1,000)~~] per month of annuity in effect the previous month.

(6) Effective July 1, ***1991*** [~~1989~~], the monthly allowance of each member retired on or before July 1, ***1990*** [~~1988~~], and each recipient of a retirement option of ***the*** [~~such~~] retired member shall be increased in the amount of ***four*** [~~two~~] percent ***(4%)*** [~~(2%)~~] of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand ***two hundred fifty*** dollars ***($1,250)*** [~~($1,000)~~] per month of annuity in effect the previous month.

(7) Effective July 1, ***1990*** [~~1980~~], monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental ***or physical*** condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of ***the*** [~~such~~] child or until ***the*** [~~such~~] time [~~as~~] the mental ***or physical*** condition creating the dependency no longer exists or the child marries. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, 1982-84, 1986-88***, 1988-90 and 1990-92*** and the ***1988-90 and 1990-92*** [~~1989-90~~] cost of implementing the increases provided under subsection (3) of this section shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the ***1990-92*** [~~1988-90~~] biennium for the cost-of-living increases approved under ***subsections*** [~~subsection~~] (5) ***and (6)*** of this section.

(9) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code as enacted in 1988.

Section 16. KRS 161.661 is amended to read as follows:

(1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided below. Application for disability benefits must be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary, except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement.

(2) No member who has reached the age of sixty (60) years and who is otherwise qualified for retirement may retire by reason of disability, with the disability allowance of sixty percent (60%) of the member's final average salary as set out in subsection (1) of this section. A member who is sixty (60) years of age or older may retire for disability with the benefit calculated on the service retirement formula and the choice of retirement options as provided for service retirement. Provisions of KRS 161.520, 161.525, and subsections (3), (4) and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of ***these*** [~~such~~] members.

(3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of [~~such~~] eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year so retired. ***This*** [~~Such~~] service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and shall be used in calculating benefits as provided in subsection (5) of this section. The service credit shall be valued at the same level as service earned by active members.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the eligibility period shall have ***his*** [~~such~~] disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620 except that those persons less than sixty (60) years of age shall be considered as sixty (60).

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of three hundred dollars ($300) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1980, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

(7) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or ***any*** [~~such~~] member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(8) In order to qualify for retirement by reason of disability a ***member*** [~~teacher~~] must suffer from a physical or mental condition presumed to be permanent in duration and of [~~such~~] a nature as to render him incapable of being gainfully employed as a teacher. ***The*** [~~Such~~] incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.

(9) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.

(10) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(11) No person who receives a disability allowance may serve as a teacher either within or without the state of Kentucky. So doing shall constitute a misdemeanor; and shall result in loss of ***the*** [~~such~~] allowance from the first date of ***this*** [~~such~~] service. The recipient of a disability allowance who engages in any gainful occupation other than teaching must make a report of the duties involved, compensation received and any other pertinent information required by the board of trustees. If the annual income from other employment plus the disability benefit exceed the sum of ***twenty*** [~~twelve~~] thousand dollars ***($20,000)*** [~~($12,000)~~] or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or ***twenty*** [~~twelve~~] thousand dollars ***($20,000)*** [~~($12,000)~~], whichever is the greater amount. In no case shall the benefit be reduced to less than seventy-five dollars ($75) per month, if the member has five (5) or more years of contributing service in the Teachers' Retirement System.

(12) The board of trustees shall designate medical review committees, each consisting of three licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all statements, certifications, and examinations submitted in connection with ***disability*** [~~such~~] applications. The disposition of each case shall be recommended by a medical review committee in writing to the board of trustees. Members of a medical review committee shall follow [~~such~~] rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized

by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The board of trustees may secure [~~such~~] additional medical service and information as it deems necessary. The board of trustees shall promulgate regulations that specify member appeal procedures.

(13) A disability may be presumed to be permanent if the condition creating ***the*** [~~such~~] disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.

(14) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

(15) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.

Section 17. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist and the provisions of this Act shall become effective July 1, 1990.

The Committee Substitute to **HB 653** is as follows:

HB 653, AN ACT relating to teachers' retirement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716, and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to ***members*** [~~teachers~~];

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) ***"Member"*** [~~"Teacher"~~] means the Superintendent of Public Instruction, principal assistants to the Superintendent of Public Instruction and all division directors in the state Department of Education, and any regular or special teacher, or professional employee occupying a position requiring certification by the state Department of Education or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state Department of Education, other public education agencies as created by the General Assembly, and [~~such~~] members of the administrative staff of the Teachers' Retirement System of the state of Kentucky as the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education ***and*** [~~and/or~~] other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky

Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, ***Kentucky Academic Association*** and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of ***these*** [~~such~~] employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to [~~such~~] persons in the employ of the associations on or subsequent to July 1, 1972;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of ***the*** [~~such~~] system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any ***member*** [~~teacher~~] not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employee contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency, or for employees of school districts, the highest percentage increase received by members on any one rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This [~~Such~~] limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and ***this*** [~~such~~] increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, including any deductions, or any amount agreed upon by the member and the employer as an alternate form of remuneration to the member for services performed;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System or who made [~~such~~] contributions in the next preceding fiscal year, or for whom picked up employee contributions are currently being made or for whom ***the*** [~~such~~] contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment or appeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim ***these contributions*** [~~the same~~] shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, ***survivor benefits, and death benefits,*** including any sums appropriated for meeting unfunded liabilities, excluding money assigned to the expense fund, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement ***or death*** of a member [~~by reason of service or disability~~] there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance ***and provide for benefits under KRS 161.520, 161.525, and 161.655***;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances ***and benefits provided under KRS 161.520, 161.525 and 161.655. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member***;

(5) The [~~survivor, death and~~] medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS [~~161.520, 161.525, 161.655 and~~] 161.675. One and ***five tenths percent***

(1.5%) [~~eighty-one hundredths percent (1.81%)~~] of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from state appropriation. [~~In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund, and the allowance reserve fund, such amounts as may be held in those funds for the account or benefit of the member.~~] All claims for benefits under KRS [~~161.520, 161.525, 161.655 and~~] 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to ***these*** [~~such~~] funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at the beginning of a fiscal year, transfer from the guarantee fund to the [~~survivor, death and~~] medical insurance fund an amount not to exceed two percent (2%) of the income earned from investments during the immediate past year.

Section 3. KRS 161.440 is amended to read as follows:

At the end of each fiscal year the board of trustees shall assign from the guarantee fund interest at the rate of three percent (3%) to the teachers' savings fund, the state accumulation fund and the allowance reserve fund, and, effective July 1, 1978, interest at a rate of interest not to exceed the average yield on fixed income security investments for the immediate past year to the [~~survivor, death and~~] medical insurance fund. The amounts so allowed shall be due and payable to the funds and shall be annually credited thereto by the board of trustees from interest and other earnings on money of the retirement system.

Section 4. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new ***members*** [~~teachers~~], all present teachers and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29. The Board of Trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership. [~~No person without previous Kentucky service who was age sixty-five (65) or older on July 1, next preceding employment, may become a member of the Teachers' Retirement System.~~]

(2) Service credit shall be forfeited upon withdrawal. If a ***member*** [~~teacher~~] again enters service it shall be as a new ***member*** [~~teacher~~], except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain [~~such~~] service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions; or

(d) When a ***member*** [~~teacher~~], having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years.

Upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of ***these*** [~~such~~] funds at any time. ***The*** [~~Such~~] terminated service shall be reinstated, if not withdrawn by the member, in the event that the ***member*** [~~teacher~~] returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the ***member*** [~~teacher~~] return all of his accumulated contributions with regular interest, including any payments made by the ***member*** [~~teacher~~] to the state accumulation fund, but the ***member*** [~~teacher~~] shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the [~~survivor, death and~~] medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for social security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form.

(7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the ***member*** [~~teacher~~] to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the ***member*** [~~teacher~~] or to contributions made to the [~~survivor, death and~~] medical insurance fund.

(8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the state police retirement system, or the judicial retirement system may use service, under ***that*** [~~such~~] retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 5. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive credit for active service rendered in the armed forces of the United States, subject to regulations established by the board of trustees. ***Military*** [~~Such~~] service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of ***military*** [~~such~~] service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) ***No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.***

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on ***this military*** [~~such~~] service, may not receive credit for any ***military*** [~~such~~] service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and ***after this date*** [~~thereafter~~].

(4)[~~(3)~~] A member receiving retirement credit for active duty in the armed services of the United States shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the survivor, death and medical insurance fund. ***These*** [~~Such~~] contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting ***this*** [~~such~~] service.

Section 6. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for

credit, service rendered out of state, not to exceed ten (10) [~~such~~] years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase ***this*** [~~such~~] service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided ***this*** [~~such~~] service was rendered after January 1, 1984. In the event ***this*** [~~such~~] service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for ***this*** [~~such~~] service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. ***The*** [~~Such~~] payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. ***This*** [~~Such~~] credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the state of Kentucky may present ***this*** [~~such~~] service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no [~~such~~] service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by ***a*** [~~such~~] public institution or governmental agency. ***This*** [~~Such~~] service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use ***this*** [~~such~~] service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of ***eight percent (8%)*** [~~seven and eighty-four hundredths percent (7.84%)~~] for each year so used. ***These*** [~~Such~~] payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and ***after this date*** [~~thereafter~~], shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

Section 7. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred twenty dollars ($220) per month when the surviving widow or widower's total income from all sources does not exceed six thousand dollars ($6,000) per year or five hundred dollars ($500) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life except ***as provided in subsection (6) of this section*** [~~that eligibility for this benefit shall cease upon remarriage~~]. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be one hundred eighty dollars ($180) per month in

the case of one (1) [~~such~~] child, three hundred ten dollars ($310) per month in the case of two (2) [~~such~~] children, three hundred sixty dollars ($360) per month in the case of three (3) [~~such~~] children, and four hundred dollars ($400) per month in the case of four (4) or more [~~such~~] children. Benefits under this subsection shall apply ***in addition to*** [~~notwithstanding~~] benefits which may be payable under subsections (1) and (3) of this section.

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of ***the*** [~~such~~] child or until ***the*** [~~such~~] time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(12). Benefits under this subsection shall apply ***in addition to*** [~~notwithstanding~~] benefits which may be payable under subsections (1) and (2) of this section [~~and shall be in addition to such benefits~~].

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19) if a full-time student in high school or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems ***this*** [~~such~~] action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized ***the*** [~~such~~] payments. The board shall formulate and adopt necessary administrative regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of ***the*** [~~such~~] accumulated contributions.

(10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualificatilure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 8. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of ***twenty-seven (27)*** [~~thirty (30)~~] years of service prior to retiring for disability, except as provided in KRS 161.661(6), the spouse, if named as the beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided under KRS 161.520, an annuity actuarially equivalent to the annuity that would have been paid to the member had retirement for service been effective on the day the member retired for disability. In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance. There shall be a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, ***1988*** [~~1984~~], and to surviving spouses of members who die on or after July 1, 1984.

Section 9. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as beneficiary of the member's retirement account or in the absence of an eligible spouse a legal dependent of ***the*** [~~said~~] member, if named as beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or ten (10) years certain payment. A spouse may receive the annuity provided herein at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520, however, a legal dependent, other than a spouse, may not receive ***these*** [~~such~~] payments if children have qualified for benefits under that section.

(2) A spouse or legal dependent qualifying for an annuity under subsection (1) of this section may defer ***the*** [~~such~~] payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his death, who had a minimum of ***twenty-seven (27)*** [~~thirty (30)~~] years of service, the spouse, if named as the beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

Section 10. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for ***this*** [~~such~~] leave as provided in administrative regulations adopted by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked up pursuant to KRS 161.540(2).

(2) ***A member who has been out of the teaching profession, but not on an official leave of absence, for the purpose of obtaining a masters degree, Rank 1, or a doctors degree may purchase up to one (1) year of service credit in the Teachers' Retirement System. Any member who qualifies to purchase this service shall pay to the retirement system an amount equal to the contribution rate in effect on the salary the last year the member was employed prior to enrollment in a masters, Rank 1, or doctors degree program with interest at the rate of eight percent (8%) compounded annually from the beginning of the school year next following enrollment in a masters Rank 1, or doctors degree program. This sum shall be deposited in the state accumulation fund. Credit purchased may not exceed the time the member is enrolled in a masters program, Rank 1 program, or doctoral program. Leave for this purpose shall be verified by a copy of the member's college transcript. This service credit must be purchased prior to July 1, 1991*** [~~Active members who have been granted leaves of absence since July 1941, for reasons of health or to improve their educational qualifications, and did not make contributions to the Teachers' Retirement System may make contributions prior to July 1, 1989, under the following conditions:~~

~~(a) Such leave shall be verified by a copy of the board of education minutes which granted the leave of absence;~~

~~(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence with interest at the rate of eight percent (8%) compounded annually from the beginning of the school year next following the year of leave, and by depositing in the state accumulation fund an amount equal to the above sum; and~~

~~(c) The member may receive credit for no more than two (2) years under the provisions of this subsection.~~

~~(3) A teacher who has been out of the teaching profession, but not on an official leave of absence, for~~

~~the purpose of obtaining a masters degree may purchase up to one (1) year of service credit in the Teachers' Retirement System. Credit purchased shall not exceed the time the teacher is enrolled in a masters program. Leave for such purpose shall be verified by a copy of the teacher's college transcript~~].

Section 11. KRS 161.585 is amended to read as follows:

(1) Each member's account shall be administered in a confidential manner and specific data regarding a member shall not be released for publication unless authorized by the member; however, the board of trustees may release member account information to the employer or to other state and federal agencies as it deems necessary.

(2) Medical records which are included in a member's file maintained by the Teachers' Retirement System are confidential and shall not be released unless authorized by the member in writing or as otherwise provided by law.

Section 12. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number; or

(c) Completion of twenty-seven (27) years of Kentucky service. ***Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement.***

(2) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years, may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects, he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for ***in this subsection*** [~~above~~] if ***the*** [~~such~~] member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees ***Retirement System*** or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a)***,*** [~~and~~] (b) ***and (c)*** of this section, provided ***the*** [~~such~~] service is subsequent to July 1, 1956.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees.

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 13. KRS 161.603 is amended to read as follows:

(1) Any ***member*** [~~teacher~~] retired by reason of service [~~and less than age seventy~~] may waive his annuity and return to regular employment in a ***position*** [~~Kentucky public elementary or secondary school or state college or university~~] covered by the ***Teachers' Retirement*** System. ***The member*** [~~Such teacher~~] shall receive no annuity payments while [~~so~~] employed ***in a covered position***, but shall continue to be covered by the system's hospital and medical insurance program and his estate shall continue to be eligible for death benefits as provided in KRS 161.655. [~~He shall be returned to the annuity rolls as of the first of the month next following the month in which the last teaching was performed. A teacher who waives his annuity and teaches for eight (8) months or more during a school term shall be returned to the annuity rolls as of July 1 following the close of such school term. Such person shall not be considered a member of the retirement system, and no contributions shall be made for him.~~] Service subsequent to retirement shall not be used to improve an annuity, except as provided in ***subsections*** [~~subsection~~] (2) ***and (3) of this section*** [~~below~~].

(2) Any ***member*** [~~teacher~~] who waives regular annuity benefits and returns to teaching ***or covered employment*** [~~for at least two (2) consecutive regular school years~~] shall be entitled to make contributions

on the salaries received for ***this*** [~~such~~] service and have their retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1)(a) less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by post-retirement employment nor shall dependents and spouses of ***the*** [~~such~~] members become eligible for benefits under KRS 161.520, 161.525 and 161.661 because of post-retirement employment.

(3) When a member returns to full-time teaching or covered employment as provided in subsection (2) of this section, the employer is required to withhold and remit regular retirement contributions. The member must be employed full-time for at least one (1) consecutive contract year to be eligible to improve an annuity. The member will be returned to the annuity rolls on July 1 following completion of the contract year or on the first day of the month following the month of termination of service if full-time employment exceeds one (1) consecutive contract year. Any discounts applied at the time of the original retirement due to service may be reduced or eliminated due to additional employment if full-time employment is for one (1) contract consecutive year or longer.

Section 14. KRS 161.605 is amended to read as follows:

(1) Retired ***members*** [~~teachers~~] may ***perform*** [~~do~~] part-time or substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation for ***this teaching*** [~~same~~] without reduction in retirement annuities. The board of trustees by regulation may establish fractional equivalents of a day of teaching service.

(2) Retired members may be employed part-time in a non-teaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. The board of trustees shall determine if employment in a non-teaching position qualifies for an exemption under this subsection.

Section 15. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For retirements effective January 1, 1984, and thereafter, the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by administrative regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%); and

(c) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, ***1990*** [~~1980~~], and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of ***one and one-half percent (1.5%)*** [~~one percent (1%)~~].

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than ***two hundred ten dollars ($210)*** [~~one hundred ninety dollars ($190)~~] effective July 1, ***1990*** [~~1988~~], and two hundred ***twenty*** dollars ***($220)*** [~~($200)~~] effective July 1, ***1991*** [~~1989~~], multiplied by the service credit years of the ***member*** [~~teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the Teachers' Retirement System shall receive a monthly benefit of less than seventy-five dollars ($75)~~]. ***These*** [~~The above~~] minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection. Eligibility for the benefits provided under this subsection shall be determined after applying any other cost-of-living adjustments provided by statute to the June, ***1990*** [~~1986~~] and June, ***1991*** [~~1987~~] annuity payment

of the member. ***The increases provided for in this subsection shall not be implemented unless funding is provided in the 1990-92 biennium budget appropriation.***

(4) The minimum provided in this section shall apply in the case of ***members*** [~~teachers~~] retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the ***member*** [~~teacher~~] and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***1990*** [~~1988~~], the monthly allowance of each member retired on or before July 1, ***1989*** [~~1987~~], and each recipient of a retirement option of ***the*** [~~such~~] retired ***member*** [~~members~~] shall be increased in ***an amount not to exceed three and one-half percent (3.5%)*** [~~the amount of two percent (2%)~~] of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand ***two hundred fifty*** dollars ***($1,250)*** [~~($1,000)~~] per month of annuity in effect the previous month. ***The level of increase provided for in this subsection shall be determined by the funding provided in the 1990-92 biennium budget appropriation.***

(6) Effective July 1, ***1991*** [~~1989~~], the monthly allowance of each member retired on or before July 1, ***1990*** [~~1988~~], and each recipient of a retirement option of ***the*** [~~such~~] retired member shall be increased in ***an amount not to exceed three and one-half percent (3.5%)*** [~~the amount of two percent (2%)~~] of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand ***two hundred fifty*** dollars ***($1,250)*** [~~($1,000)~~] per month of annuity in effect the previous month. ***The level of increase provided for in this subsection shall be determined by the funding provided in the 1990-92 biennium budget appropriation.***

(7) Effective July 1, ***1990*** [~~1980~~], monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental ***or physical*** condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of ***the*** [~~such~~] child or until ***the*** [~~such~~] time [~~as~~] the mental ***or physical*** condition creating the dependency no longer exists or the child marries. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, 1982-84, 1986-88, ***1988-90 and 1990-92*** and the ***1988-90 and 1990-92*** [~~1989-90~~] cost of implementing the increases provided under subsection (3) of this section shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the ***1990-92*** [~~1988-90~~] biennium for the cost-of-living increases approved under ***subsections*** [~~subsection~~] (5) ***and (6)*** of this section.

(9) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code as enacted in 1988.

Section 16. KRS 161.661 is amended to read as follows:

(1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided below. Application for disability benefits must be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary, except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement.

(2) No member who has reached the age of sixty (60) years and who is otherwise qualified for retirement may retire by reason of disability, with the disability allowance of sixty percent (60%) of the member's final average salary as set out in subsection (1) of this section. A member who is sixty (60) years of age or older may retire for disability with the benefit calculated on the service retirement formula and the choice of retirement options as provided for service retirement. Provisions of KRS 161.520, 161.525, and subsections (3), (4) and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of ***these*** [~~such~~] members.

(3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position but any member

meeting the service requirement for disability retirement shall be credited with no less than five (5) years of [~~such~~] eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year so retired. ***This*** [~~Such~~] service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and shall be used in calculating benefits as provided in subsection (5) of this section. The service credit shall be valued at the same level as service earned by active members.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the eligibility period shall have ***his*** [~~such~~] disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620 except that those persons less than sixty (60) years of age shall be considered as sixty (60).

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of three hundred dollars ($300) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1980, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

(7) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or ***any*** [~~such~~] member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(8) In order to qualify for retirement by reason of disability a ***member*** [~~teacher~~] must suffer from a physical or mental condition presumed to be permanent in duration and of [~~such~~] a nature as to render him incapable of being gainfully employed as a teacher. ***The*** [~~Such~~] incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.

(9) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.

(10) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(11) No person who receives a disability allowance may serve as a teacher either within or without the state of Kentucky. So doing shall constitute a misdemeanor; and shall result in loss of ***the*** [~~such~~] allowance from the first date of ***this*** [~~such~~] service. The recipient of a disability allowance who engages in any gainful occupation other than teaching must make a report of the duties involved, compensation received and any other pertinent information required by the board of trustees. If the annual income from other employment plus the disability benefit exceed the sum of ***twenty*** [~~twelve~~] thousand dollars ***($20,000)*** [~~($12,000)~~] or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or ***twenty*** [~~twelve~~] thousand dollars ***($20,000)*** [~~($12,000)~~], whichever is the greater amount. In no case shall the benefit be reduced to less than seventy-five dollars ($75) per month, if the member has five (5) or more years of contributing service in the Teachers' Retirement System.

(12) The board of trustees shall designate medical review committees, each consisting of three licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all statements, certifications, and examinations submitted in connection with ***disability*** [~~such~~] applications. The disposition of each case shall be recommended by a medical review committee in writing to the board of trustees. Members of a medical review committee shall follow [~~such~~] rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The board of trustees may secure [~~such~~] additional medical service and information as it deems necessary. The board of trustees shall promulgate regulations that specify member appeal procedures.

(13) A disability may be presumed to be permanent if the condition creating ***the*** [~~such~~] disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.

(14) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

(15) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.

Section 17. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist and the provisions of this Act shall become effective July 1, 1990.

SB 78, AN ACT relating to teacher scholarships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the Commission for Business Schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the Commission on Colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) ***"Critical shortage area" means a shortage of teachers for particular subjects, grade levels, or in in geographic locations as determined by the authority following consultation with the Superintendent of Public Instruction. The Department of Education shall forward a list of critical shortage areas to the authority in January of each year.***

(6) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal Act or this chapter as eligible to participate in authority administered programs, provided that no right of participation shall be deemed vested herein in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(7)[~~(6)~~] "Eligible lender" means any entity described as eligible pursuant to the federal Act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(8) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification or to recertification in a critical shortage area, and which does not lead to a certificate, diploma, or degree in theology, divinity, or religious education.

(9)[~~(7)~~] "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal Act and this chapter for the various authority administered programs.

(10)[~~(8)~~] "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(11)[~~(9)~~] "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(12)[~~(10)~~] "Grant" means a gift of money, tuition discount, waiver of tuition and fees or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(13)[~~(11)~~] "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(14)[~~(12)~~] "Insured student loan" means an obligation representing advances of money to an eligible borrower who is qualified under the federal Act, evidenced by one (1) or more promissory notes, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary to the extent of not less than eighty percent (80%) of the principal amount thereof under the federal Act.

(15)[~~(13)~~] "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(16)[~~(14)~~] "Loan guarantee" means the certificate, document or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary to the extent of not less than eighty percent (80%) of the principal amount thereof under the federal Act.

(17)[~~(15)~~] "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(18)[~~(16)~~] "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal Act and this chapter.

(19) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a state accredited school in Kentucky. Except for people eligible under subsection (3)(c) of Section 2 of this Act, qualified teaching service shall also require teaching in a critical shortage area.

(20)[~~(17)~~] "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(21)[~~(18)~~] "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and [~~such~~] other terms and conditions [~~as~~] the board may prescribe.

(22)[~~(19)~~] "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(23)[~~(20)~~] "Secretary" means the United States secretary of education.

(24)[~~(21)~~] "Vocational school" means any public vocational school which is accredited by the Kentucky State Board for Elementary and Secondary Education and which provides a course of study leading to the granting of a postsecondary degree or diploma or a vocational technical school accredited by the National Association of Trade and Technical Schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma or certificate.

(25)[~~(22)~~] "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

SECTION 2. A NEW SECTION OF KRS 164.740 TO 164.780 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to establish a teacher scholarship program to attract and encourage the most academically talented individuals to become certified Kentucky teachers and render service in the state accredited schools of the Commonwealth.

(2) The Kentucky Higher Education Assistance Authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons enrolled or accepted for enrollment at colleges located in Kentucky, who declare an intention to enter the teaching profession in the state accredited schools of the Commonwealth, and who are eligible under subsections

(3) and (4) of this section. Each teacher scholarship shall be evidenced by a promissory note which requires cancellation or repayment pursuant to subsections (5) and (6) of this section.

(3) Kentucky residents who are enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution and who agree to render qualified teaching service upon completion of the program of study shall be eligible to apply for teacher scholarships if they meet the following criteria:

(a) Rank academically in the top twenty-five percent (25%) of their high school graduating class; or

(b) Score at or above the seventy-fifth percentile on an instrument approved by the Council on Higher Education for admission to Kentucky's institutions of higher education; or

(c) Have previously been certified to teach, have a cumulative grade point average of at least 2.5 on a 4.0 scale on prior undergraduate studies, and agree to pursue appropriate recertification.

(4) Persons enrolled full-time at a participating institution in an eligible program of study who have previously received a teacher scholarship, or a mathematics and science incentive loan, pursuant to prior statutory enactments, or a teacher scholarship pursuant to this Act, not in excess of the aggregate limit prescribed by subsection (5)(a) of this section, shall be eligible to apply for additional teacher scholarships if they:

(a) Have maintained continuous full-time enrollment, exclusive of periods of approved deferment;

(b) Have made satisfactory progress toward completion of the eligible program of studies in accordance with standards prescribed by the participating institution; and

(c) Have attained a cumulative grade point average of at least 2.5 on a 4.0 scale on all prior undergraduate studies and at least 3.0 on a 4.0 scale on all prior graduate studies.

(5) (a) The authority shall establish the maximum value of the scholarship to be awarded annually. However, the aggregate cumulative amount per individual shall not exceed twenty thousand dollars ($20,000), and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.

(b) Recipients shall render one (1) semester of qualified teaching service as repayment for each semester of scholarship received, except that recipients who teach in a critical shortage area shall render one (1) semester of qualified teaching service as repayment for two (2) semesters of scholarships received.

(6) (a) If a recipient ceases to be enrolled on a full-time basis in an eligible program of study at a participating institution prior to completion of an eligible program of studies, he shall immediately become liable to the authority to pay the sum of all teacher scholarships received and accrued interest thereon, unless the authority, in its sole discretion, grants a deferment for cause.

(b) Recipients failing to render qualified teaching service in any semester following certification shall immediately become liable to the authority to pay the sum of all outstanding teacher scholarships and accrued interest thereon, unless the authority, in its sole discretion, grants a deferment for cause.

(c) Persons liable for repayment of teacher scholarships under this section shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.

(d) The promissory notes of persons who actually render qualified teaching service shall be canceled by the authority at the rate prescribed in subsection (5)(b) of this section. Recipients who have outstanding mathematics and science incentive loans or teacher scholarships awarded under previous statutory enactments shall have their notes canceled in accordance with subsection (5)(b) of this section.

(e) The authority shall establish the terms and conditions for awarding, cancelling, repaying, and deferring payment of teacher scholarships including, but not limited to, the selection criteria, the amount of scholarship awards, the basis for and duration of deferments, the rate of repayment, and the interest rate thereon.

(f) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a teacher scholarship under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at a rate five percent (5%) greater than the rate actually charged on the promissory note.

(7) A repayment obligation shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.

(8) Failure to meet repayment obligations shall be cause for the revocation of a teaching certificate, subject to the procedures set forth in KRS 161.120.

(9) All funds paid to the authority pursuant to this Act shall be added to any appropriations made for purposes of this Act. Unobligated funds, including loan and interest payments as well as appropriations, shall not lapse to the general fund but shall be available for additional teacher scholarships.

(10) The authority shall execute appropriate contracts and promissory notes for administering this section. No teacher scholarship shall be awarded nor promissory note cancellation granted to any person who is in default on any obligations to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785.

(11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If awards to all eligible renewal applicants do not deplete funds, initial applications shall be ranked according to regulatory selection criteria and awards shall be made to the most highly qualified applicants until funds are depleted.

(12) The repeal of any prior statutory enactment pursuant to this Act shall not be construed or interpreted as relieving or releasing any individual from any prior obligation owed to the authority under any program administered by the authority pursuant to prior statutory enactments.

Section 3. The following KRS sections are repealed:

164.768 Legislative intent — Student loans for specified majors.

164.770 Legislative intent — Student loans for teacher education.

The House Committee Amendment No. 1 to SB 78 is as follows:

Amend printed copy of GA copy of SB 78 on page 2, line 1 after the word "***locations***" by adding the following: "***or a shortage of certified personnel for special instructional services***";

on page 2, line 21 after the word "***teacher***" by adding the following: "***or special instructional services***";

on page 5, line 3 after the work "***Kentucky***" by adding the following: "***or employed full time in a special instructional service position***";

on page 5, after line 23 by adding the following:

"***(24) "Teacher" means any person for whom certification is required as a basis of employment in the public schools who is employed in a position of direct instruction of students or who is employed in a position providing special instructional services for students.***"

on page 5, line 24 by changing "***(24)***" to "***(25)***";

on page 6, line 7 by changing "***(25)***" to "***(26)***".

The House Committee Amendment No. 2 to SB 78 is as follows:

Amend printed copy of GA copy of SB 78 on page 1, line 20, after the word "***means***" insert a comma and "***for purposes of Section 2 of this Act,***";

On page 2, line 19, after the word "***means***" insert a comma and "***for purposes of Section 2 of this Act,***";

On page 4, line 26, after the word "***means***" insert a comma and "***for purposes of Section 2 of this Act,***";

On page 5, line 3, after the word "***Kentucky***" remove the period and insert a comma. Make the word "***Except***" lower case and insert the word "***that***" after except.

On page 7, line 18, following the comma after the word "***studies***" insert "***and at least the equivalent of 3.0 on a 4.0 scale on any prior graduate studies,***"; and

On page 9, line 3, change the word "***studies***" to "***study***".

The Committee on Transportation reported **HB 209** with Committee Substitute, **HB 423** with Committee Amendment attached thereto, **HB 534** with Committee Amendment attached thereto, **HB 643** and **SB 52** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to motor vehicle taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not previously been registered in this state, shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for ***fifteen (15)*** [~~thirty (30)~~] days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, which is currently registered and titled in another state, may be equipped with a temporary tag, which shall be valid for ***fifteen (15)*** [~~thirty (30)~~] days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.

Section 2. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school and special taxing district ad valorem taxes shall be due and payable on or before the [~~earlier of the~~] last day of the month in which registration renewal is required by law for ***all*** [~~a~~] motor ***vehicles*** [~~vehicle~~] renewed [~~or the last day of the month in which a vehicle is transferred~~].

(2) All state, county, city, urban-county government, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the [~~earlier of the~~] end of the month in which registration [~~renewal~~] is required by law [~~or the last day of the second calendar month following the month in which a vehicle was transferred~~].

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency; provided, however, that no penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220. ***The county clerk shall file a lien on any motor vehicle for which taxes have become delinquent on behalf of the state, county, city, urban-county government, school, and special taxing districts and record such lien on the face of the certificate of title and registration, and also record the lien in the manner in which lis pendens are recorded.***

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the ***purchaser shall become*** [~~owner of record on January 1 of any year shall be~~] liable for the taxes on said motor vehicle[~~, except as hereinafter provided~~].

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month following said assessment date or date of transfer, whichever is earlier.

Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

[~~(6) All motor vehicles currently titled and registered in this state held on an assignment by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(11) and 132.220.~~

~~(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. No lien for delinquent ad valorem taxes shall attach to any motor vehicle transferred while the taxes are due on that vehicle.~~

~~(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS data base. For the filing and release of each such lien or set of liens arising from motor vehicle ad valorem property tax delinquency a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.~~

~~(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.~~]

Section 3. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the Revenue Cabinet for collecting state ad valorem taxes on motor vehicles a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer for collecting county and special district ad valorem taxes on motor vehicles a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) ***For filing a lien for delinquent taxes on motor vehicles, the county clerk shall be allowed a fee of six dollars ($6) to be added to the amount of taxes, penalty and interest due and collected upon payment by the taxpayer of the delinquent tax claim.***

(6) County clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due on each motor vehicle due no later than one (1) month prior to the due date. These notices shall be prepared and mailed by the Revenue Cabinet for county clerks, and actual costs of preparation and mailing shall be paid by the county clerks to the Revenue Cabinet

[~~(a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner of record of each motor vehicle no later than one month prior to the ad valorem tax and registration renewal due date in each calendar year.~~

~~(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner of record as of January 1 of that year.~~

~~(c) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Non-receipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery~~].

Section 4. KRS 186A.145 is amended to read as follows:

(1) Upon receiving an application of an owner for a first certificate of registration or title in his name, the county clerk or deputy clerk shall review the form, and each copy thereof, for legibility, completeness, and consistency of information. The clerk shall ensure that all documents required in support of the application accompany the application and that they are consistent in pertinent part with the statements upon the application.

(2) Upon determining that an application is in proper form, the county clerk or his deputy shall complete those elements of the form reserved to the county clerk, endorse the application in the manner directed upon the form, and then enter designated information from the application into the automated system, in the manner required by administrative regulations of the Department of Vehicle Regulation consistent with this chapter.

[~~(3) No county clerk shall process an application for Kentucky title and registration from or to any Kentucky resident who has a delinquent motor vehicle ad valorem property tax account. This provision shall not apply to transactions involving licensed Kentucky motor vehicle dealers.~~]

Section 5. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents (30) for calculating the state, county and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the Revenue Cabinet for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the county levy and the other one-half (1/2) out of the state treasury. The county clerk shall certify the allowance to the Finance and Administration Cabinet, which shall draw a warrant on the state Treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above county allowance shall likewise be paid to the county clerk for calculation of the state, county, city, urban-county government, school and special district tax for each individual motor vehicle taxpayer, based upon certification from the Revenue Cabinet of the number of accounts as of January 1 each year. ***The cabinet shall recover from the county clerk, those costs incurred by the cabinet directly associated with the calculation of said taxes in the centralized ad valorem tax system for motor vehicles.***

Section 6. KRS 186A.030 is amended to read as follows:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the Department of Vehicle Regulation, in cooperation with the Revenue Cabinet, shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the Revenue Cabinet, and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with [~~an owner of~~] a motor vehicle or trailer. No motor vehicle dealer shall be responsible for the payment of a tax lien on a motor vehicle which is received as trade-in or otherwise obtained by the dealer.

Section 7. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the cabinet, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within fifteen (15) days. The bill of sale or assigned title must be in the motor vehicle during this fifteen (15) day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A bill of sale and a manufacturer's certificate of origin if the application is for the registration of a new motor vehicle;

(b) The owner's registration receipt, if the motor vehicle was last registered in this state;

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership;

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership; or

(e) An affidavit from an officer of a local government saying that the motor vehicle has been abandoned and that the provisions of KRS 82.630 have been complied with, for local governments which elect to use the provisions of KRS 82.600 to 82.640.

(2) (a) After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before the date on which his certificate of registration expires. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet; and

(b) After that, the owner of any motor vehicle registered under KRS 186.050(2) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050(3) to (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(4) The application and documents presented therewith, including the sheriff's certificate of inspection, shall be affixed to the Transportation Cabinet copy of the certificate of title or registration and sent to the Transportation Cabinet by the clerk.

(5) At least thirty (30) days prior to the expiration of registration of any motor vehicle previously registered in the Commonwealth as provided by KRS 186A.035, the owner of said vehicle shall be notified by mail on the same notice required by KRS 134.805*(6)*[~~(5)~~] of the date of expiration. In addition, the department shall provide appropriate forms and information to permit renewal of motor vehicle registration to be completed by mail. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk. Non-receipt of the notice herein shall not constitute a defense to any registration related offense.

Section 8. KRS 235.066 is amended to read as follows:

At least thirty (30) days prior to the expiration of registration of any motorboat previously registered in the Commonwealth as provided by KRS 235.070, the owner of the motorboat shall be notified by mail on the same notice required by KRS 134.805*(6)*[~~(5)~~] of the date of expiration. In addition, the cabinet shall provide appropriate forms and information to permit renewal of motorboat registration to be completed by mail. Any registration renewal by mail shall require payment of an additional one dollar ($1.00) fee which shall be received by the county clerk. Non-receipt of the notice herein shall not constitute a defense to any registration related offense.

Section 9. KRS 186A.035 is amended to read as follows:

(1) All motor vehicles with a gross vehicular weight of six thousand (6,000) pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless cancelled by the cabinet in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last day of the next birth month of the owner following the month during which registration is applied for, provided however that, upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration. Any transaction relating to registration or registration renewal which would cause an unexpired Kentucky motor vehicle license plate to be surrendered shall have that unexpired fee prorated or credited against any additional fee required by a subsequent registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county

clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of two dollars ($2) for each registration, or if said registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3).

(5) At least thirty (30) days prior to the expiration of the registration of any motor vehicle previously registered in the Commonwealth as provided by subsection (1) of this section, the owner of the vehicle shall be notified by mail on the same notice required by KRS 134.805***(6)***[~~(5)~~] of the date of expiration. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk. Non-receipt of the notice herein shall not constitute a defense to any registration related offense.

(6) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(7) Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month, shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(8) The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins, and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the Department of Vehicle Regulation.

Section 10. The following KRS sections are repealed:

186.023 Title and registration cancelled upon notice of transfer from another jurisdiction.

134.825 Costs of programming and administering AVIS for ad valorem collections to be paid by finance and administration cabinet.

The Committee Substitute to **HB 209** is as follows:

HB 209, AN ACT relating to motor vehicle taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency; provided, however, that no penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on ***the*** [~~said~~] motor vehicle, except as hereinafter provided.

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month following ***the*** [~~said~~] assessment date or date of transfer, whichever is

earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) All motor vehicles currently titled and registered in this state held on an assignment by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(11) and 132.220.

[~~(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. No lien for delinquent ad valorem taxes shall attach to any motor vehicle transferred while the taxes are due on that vehicle.~~

~~(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS data base. For the filing and release of each such lien or set of liens arising from motor vehicle ad valorem property tax delinquency a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.~~

~~(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.~~]

Section 2. KRS 186.021 is amended to read as follows:

(1) No county clerk shall issue [~~a replacement plate, decal or registration certificate as provided in KRS 186.180 or~~] a registration for renewal ***for any*** [~~to any persons who on January 1 of any year owned a~~] motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are ***due and have not been paid*** [~~delinquent~~].

(2) No county clerk shall issue a replacement plate, decal or registration certificate as provided in KRS 186.180 or a registration renewal for any motor vehicle which is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in regulations issued by the Department of Insurance.

Section 3. KRS 186A.145 is amended to read as follows:

(1) Upon receiving an application of an owner for a first certificate of registration or title in his name, the county clerk or deputy clerk shall review the form, and each copy thereof, for legibility, completeness, and consistency of information. The clerk shall ensure that all documents required in support of the application accompany the application and that they are consistent in pertinent part with the statements upon the application.

(2) Upon determining that an application is in proper form, the county clerk or his deputy shall complete those elements of the form reserved to the county clerk, endorse the application in the manner directed upon the form, and then enter designated information from the application into the automated system, in the manner required by administrative regulations of the Department of Vehicle Regulation consistent with this chapter.

[~~(3) No county clerk shall process an application for Kentucky title and registration from or to any Kentucky resident who has a delinquent motor vehicle ad valorem property tax account. This provision shall not apply to transactions involving licensed Kentucky motor vehicle dealers.~~]

HB 423, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) Every road which is part of the state primary system shall be identified by a specific route number or name which shall be designated on the official state road map. In addition to a route number, the secretary of transportation may name a road or bridge on the state highway system after an individual, historic event or any other name which may be of significance to the history of this Commonwealth or any of its counties or communities.

(2) The secretary shall be petitioned by a unit of local government, civic organization, or other interested party before naming a road or bridge on the state primary road system. In addition, the secretary shall be convinced by the petitioner that the person or event that the road or bridge is being named for is of civic or historical significance.

(3) The secretary shall name a road or bridge upon direction by joint resolution of the General Assembly. Upon introduction of a resolution, the secretary shall inform the chairman of the committee to which the resolution is assigned as to whether he has been petitioned to name a road or bridge presented in the resolution and if so petitioned, his reasons for not taking action on the request.

(4) If the secretary grants the request to name a road or bridge through petition, the signs to be placed on the roads shall become the responsibility of the petitioner with the design and placement of the signs approved by the department. If the signs are to be placed as a result of a resolution passed by the General Assembly, the responsibility for placement of the signs shall be upon the Department of Highways.

The Committee Amendment No. 1 to **HB 423** is as follows:

Amend printed copy of **HB 423** on page 2, after line 12, by inserting the following language:

"***(5) The Transportation Cabinet may adopt administrative regulations to implement the road and bridge naming program. The administrative regulations shall at a minimum establish basic standards for design and placement of signs or allow the local entity to reimburse the Transportation Cabinet for the cost of manufacturing and installing the signs for which a petition has been granted.***"

HB 534, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city, county or urban-county government which contacts the Department of Highways with an offer to pay the entire non-federal share of a project which qualifies for federal aid shall have the project approved by the department.

(2) In addition to project approval, the department shall provide all necessary technical and administrative assistance in submission of the project to the Federal Highway Administration.

Section 2. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "mass transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS chapter 96A with which to acquire, operate and preserve mass transportation facilities. A "mass transportation program" may also include a method for the public body or public bodies to finance principal and interest payments on any general obligation bonds issued pursuant to KRS 96A.120, or to finance transportation related facilities to promote the movement of vehicles and people ***including the improvement of existing roads and the construction of new roads.***

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either [~~(i)~~] the electorates of such public bodies, or [~~(ii)~~] the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the Constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either [~~(i)~~] the electorates of such public bodies, or [~~(ii)~~] the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of*:*

(a) Salaries, wages, commissions and other compensation earned by persons for work done and services performed or rendered*,*[~~;~~] and

(b) The net profits of businesses, trades, professions or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) ***(a)*** Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either [~~(i)~~] the electorates of such public bodies, or [~~(ii)~~] the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by the voted levy of a sales tax upon all retailers at a rate not to exceed one-half of one percent of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within the public body or public bodies, provided, however, that public transit sales tax shall not be levied on those retail sales which are exempted from the state sales tax by KRS Chapter 139 on June 19, 1976, or hereafter exempted.

(b) Any mass transportation program financed by this revenue source shall consist only of improvements to and construction of roads which are part of the Kentucky state highway system.

(c) Any sales tax levied for said purpose shall be in addition to the sales tax authorized by Chapter 139 of the Kentucky Revised Statutes. Said public transportation sales tax shall be collected and administered under the provisions of Chapter 139 of the Kentucky Revised Statutes and the rules and regulations of the Kentucky Revenue Cabinet.

(5) The Kentucky Revenue Cabinet shall refund that portion of the sales tax collected as a public transportation tax to the public body or bodies imposing said tax.

(6) Notwithstanding any other provision contrary hereto, a mass transportation program financed by a public body or public bodies from said sales tax shall be restricted by the following order of priorities, to wit:

(a) First, the annual payment of principal, interest and sinking fund requirements on any general obligation bonds issued pursuant to KRS 96A.120;

(b) Second, appropriations to the transit authority to provide local matching funds for any available federal or state capital, operating or planning and demonstration, grant projects in accordance with the annual approved budget; and

(c) Third, any excess funds in the control of each public body receiving said tax shall be transferred to the general fund of each such public body for public transportation and traffic improvement projects at any location within a city or county, in any manner which said public body or public bodies determine will improve transportation, road or traffic conditions, or in general will promote the movement of people and vehicles.

Section 3. KRS 96A.330 is amended to read as follows:

(1) Any transit authority created pursuant to the provisions of KRS Chapter 96A may, by resolution duly adopted by its board in the manner prescribed by KRS 96A.060, request one or more of the public bodies which, upon the date of adoption of such resolution constitute members of such transit authority, either***:***

(a)[~~(i)~~] To submit to their respective electorates***,***[~~;~~] or

(b)[~~(ii)~~] To jointly submit to the electorate of the entire transit area encompassed by such transit authority a proposal for the approval or disapproval of a mass transportation project.

(2) The [~~Such~~] resolution shall set forth in detail, or shall incorporate by reference a detailed study in respect of, the mass transportation program proposed for submission to such electorate or electorates, together with the proposed source or sources of funding thereof, subject to the limitations of KRS 96A.310 to 96A.370. ***The mass transportation project may consist of specific road construction and improvement projects. The funding source may be proposed for a limited period of time as specified in the mass transportation program proposal at the conclusion of which the funding source shall terminate unless it has been extended by referendum in accordance with the provision of this chapter.***

(3)[~~(2)~~] Upon receipt of any such resolution of the board of any such transit authority, the governing body of each public body to which ***the*** [~~such~~] resolution is directed shall cause ***the*** [~~such~~] resolution and the study for mass transportation program contained therein to be carefully reviewed. The public body or public bodies may cause further studies to be made with respect to such request of ***the*** [~~such~~] transit authority, and may require ***the*** [~~such~~] transit authority to submit such further and additional date, statistics and information as may be required by such public body or public bodies in order to enable ***them*** [~~same~~] to make a proper decision regarding any proposed mass transportation program.

(4)[~~(3)~~] ***If*** [~~In the event~~] the governing body of any such public body shall determine that the public welfare requires the establishment of the mass transportation program as proposed by ***the*** [~~such~~] transit authority, the governing body of such public body may by resolution or ordinance determine that a proposal for the establishment of such mass transportation program shall be submitted to the electorate of ***the*** [~~such~~] public body. Such resolution or ordinance of ***the*** [~~such~~] public body shall describe the mass transportation program to be submitted to ***the*** [~~such~~] electorate, together with the proposed source of funding therefor, which shall be expressed as ***one of the following*** [~~either~~]:

(a)[~~(i)~~] An ad valorem tax levy expressed as a certain maximum number of cents per each one hundred dollars ($100) of assessed valuation, subject to constitutional limits;

(b)[~~(ii)~~] An occupational license tax, subject to the limitations of KRS 96A.310 to 96A.370; or

(c)[~~(iii)~~] A sales tax upon all retailers at a rate not to exceed one-half of one percent of the gross receipts of any retailer derived from "retail sales" or "sales at retail" as defined in KRS Chapter 139.

(5)[~~(4)~~] In the event the membership of any such transit authority consists of more than one public body, and in the event the resolution of the board of such transit authority is directed to all such public bodies, all such public bodies may, by adoption of appropriate resolutions or ordinances determine that the proposition for the establishment of ***the*** [~~such~~] mass transportation program, together with the identified funding source therefor, shall be submitted to the electorate of the transit area of ***the*** [~~such~~] transit authority rather than to the separate electorates of such public bodies. In ***that*** [~~such~~] event, the election on the proposition regarding ***the*** [~~such~~] mass transportation program shall be held simultaneously within ***the*** [~~such~~] transit area by all such public bodies and the notice of the election shall be uniform.

The Committee Amendment No. 1 to **HB 534** is as follows:

Amend printed copy of **HB 534** on page 1, lines 1 through 11, by deleting Section 1. in its entirety.

On page 1, line 12, Section 2. becomes Section 1.

On page 5, line 20, Section 3. becomes Section 2.

HB 643, AN ACT relating to an engineering scholarship program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet may by administrative regulation establish a scholarship program to provide qualified individuals to fill the cabinet's technical needs and improve the overall engineering expertise available within the cabinet. The program shall be limited to civil engineering, civil engineering technology and other branches of engineering or technical studies. A recipient of the scholarship shall be required to attend a state-supported university with which the cabinet has a written agreement for operation of the program. Recipients shall be obligated to work for the Transportation Cabinet at least one (1) year after graduation for each academic year the scholarship stipend is received.

SB 52, AN ACT relating to handicapped parking privileges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.456 is amended to read as follows:

(1) On the application of any person who has ***a severe visual, audio or physical impairment including partial paralysis, lower limb amputation, chronic heart condition, emphysema, arthritis, rheumatism or other debilitating condition which limits one's personal mobility,*** [~~lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, or any person who is blind, or any person with a severe respiratory ailment,~~] the county clerk in the county of such person's residence shall issue the handicapped person a special parking ***placard*** [~~permit~~]. In addition, any agency or organization which transports handicapped persons as a part of the service provided by ***that*** [~~said~~] agency or organization shall receive a special parking ***placard*** [~~permit~~] upon application to the county clerk for each vehicle used in the transportation of handicapped persons. The special parking ***placard*** [~~permit~~] issued shall bear the universal [~~handicapped~~] symbol ***of access*** and [~~such permit~~] shall contain [~~the handicapped person's name,~~] the special parking ***placard*** [~~permit~~] number and such other information as the Transportation Cabinet may by regulation require.

(2) The [~~annual~~] fee payable to the county clerk for a special parking ***placard*** [~~permit~~] shall be ***eigh***t [~~two~~] dollars ***($8.00)*** [~~($2.00)~~] for each ***placard*** [~~permit~~] and such ***placard*** [~~permit~~] shall ***be valid for a period of six (6) years*** [~~expire on June 30~~]. The application shall be made on a form prepared by the Transportation Cabinet. ***Placards*** [~~Permits~~] shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and ***placards*** [~~permits~~] issued.

(3) For every person seeking a special handicapped parking ***placard*** [~~permit~~], proof of such handicap

shall be required by:

(a) Evidence that the individual has a license plate for a disabled veteran as provided by KRS 186.041 or 186.042;

(b) The county clerk issuing the permit ascertaining that the applicant is obviously handicapped; or

(c) A statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration or perceptiveness is significantly reduced by a permanent or temporary disability to that person's arms, legs, lungs***, heart, ears*** or eyes.

(4) For every agency or organization seeking a special handicapped parking ***placard*** [~~permit~~], application for said ***placard*** [~~permit~~] shall include:

(a) Name of the agency or organization requesting use of a special handicapped parking ***placard*** [~~permit~~];

(b) Number of vehicles being used in the transportation of handicapped persons; and

(c) A statement from the director of the agency or organization verifying the need for such parking ***placard*** [~~permit~~].

(5) No unauthorized person shall knowingly possess a special parking ***placard*** [~~permit~~] for the handicapped.

(6) False application for a special parking ***placard*** [~~permit~~] shall constitute a violation of KRS 523.100.

(7) When a motor vehicle which is being operated by or for the benefit of the handicapped person is displaying an auto registration plate as provided in KRS 186.042, an out-of-state handicapped registration plate, a handicapped parking ***placard*** [~~permit~~] issued by any veterans' administration hospital or a special parking ***placard*** [~~permit~~] issued to a handicapped person as prescribed in this section, the motor vehicle may be parked in a designated handicapped parking place. When parked where a parking limit is imposed, the vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard. No person shall park in a designated handicapped parking area in a motor vehicle not displaying either a handicapped auto registration plate as provided in KRS 186.042 or an out-of-state handicapped registration plate on the rear of the vehicle unless he displays on the ***dashboard*** [~~rear view mirror~~] of his motor vehicle a special parking ***placard*** [~~permit~~] issued to the handicapped. No person shall park a vehicle displaying a special parking ***placard*** [~~permit~~] in a designated handicapped parking area when such vehicle is not being used for the benefit of a handicapped person.

(8) No unauthorized person shall knowingly possess a transferable ***placard*** [~~decal~~] for the handicapped.

(9) No person shall make, issue, possess, or knowingly use any imitation or counterfeit of a transferable ***placard*** [~~decal~~] for the handicapped.

(10) A temporary disabled parking placard shall be issued to an applicant who has provided written proof from a licensed physician to the Transportation Cabinet stating that the applicant has been temporarily disabled. The placard shall be issued for a period not to exceed six (6) months and may be renewed for an additional six (6) months. A fee of two dollars ($2.00) shall be charged for each temporary parking placard issued or renewed.

The Committee on Cities reported **HB 615, HB 616, HB 695** with Committee Amendment attached thereto, and **HB 697** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 615, AN ACT relating to candidates for municipal office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.045 is amended to read as follows:

(1) ***Except as provided in this Act,*** partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

(c) A candidate for city office in a partisan election shall be prohibited from being a registered party candidate during a primary election and if defeated in the primary, changing his registration to independent for the purpose of seeking the same office at the regular election for which he was defeated in the primary election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) ***Except as provided in this Act,*** nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175 and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forego conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (7), and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled, who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity or withdrawal of a candidate, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than sixty-eight (68) days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election and there are no remaining candidates running to fill the office for which a vacancy has occurred, the office shall remain vacant until after the regular election and if no person is elected to the office by write-in ballots at the regular election, the vacancy in office shall be filled temporarily by the officer or body designated by law to fill the appointment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

In a city whose boundaries extend beyond those of a single county, candidates for nomination or election to city office shall be governed by the provisions contained in KRS 83A.045, except that all nomination

papers shall be filed with the Secretary of State no later than 4 p.m. local time on the day provided for in KRS 83A.045.

Section 3. KRS 83A.050 is amended to read as follows:

(1) Election of city officers shall be governed by general election laws as provided in KRS Chapters 116 through 121 unless the city legislative body prescribes by ordinance that election of city officers shall be under nonpartisan city election laws as provided in KRS 83A.045, 83A.170, [~~and~~] 83A.175 ***and this Act***. ***The*** [~~Such~~] ordinance shall become effective not later than twenty-three (23) days prior to the date prescribed by the election law generally for filing notification and declaration forms with the county clerk in a year in which a regular election is to be held in which any city office is to be filled. Immediately subsequent to publication of any ordinance prescribing that election of city officers be under nonpartisan city election laws, a copy of that ordinance shall be filed with the county clerk of the county in which the city is located. City officers of each city of the second class operating under the city manager form of government pursuant to KRS 83A.150 shall be elected in nonpartisan elections as provided in KRS 83A.045, 83A.170, [~~and~~] 83A.175 ***and this Act***.

(2) A city may change the manner of election of city officers within the provisions of subsection (1) of this section by ordinance, except that no change shall be made earlier than five (5) years from the last change.

(3) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by KRS Chapters 116 to 121.

Section 4. KRS 83A.165 is amended to read as follows:

(1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, [~~and~~] 118.375 ***and this Act***.

(2) The election to fill the unexpired term of any city office shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.

Section 5. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk ***or the Secretary of State as provided in Section 2 of this Act***, file with the county clerk a petition signed by at least two (2) registered voters in the city. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ______________________ request that the name of ______________________ be placed before the voters of the city as that of an applicant for nomination for the office of ______________________ at the primary election to be held in our city on the date prescribed by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Street Address	Social Security Number
______________________	______________________	______________________
______________________	______________________	______________________
______________________	______________________	______________________."

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk ***or the Secretary of State*** shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk ***or the Secretary of State*** shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office. If, in accordance with the provisions of this section, a primary election has not been held, candidates for nonpartisan city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk ***or the Secretary of State*** dies or notifies the clerk ***or the Secretary of State*** in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 6. KRS 83A.175 is amended to read as follows:

(1) Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs

on or after the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are such offices to be filled, or if a ***city of the*** fourth to sixth class [~~city~~] has not conducted a primary election pursuant to KRS 83A.045, the election to fill the regular term shall be conducted in the manner prescribed by this section.

(3) Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk ***or the Secretary of State***, file with the county clerk ***or the Secretary of State*** a petition for candidacy signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ____________________ request that the name of ____________________ be placed before the voters of the city as that of a candidate for election for the office of ____________________ at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Street Address	Social Security Number
____________	____________	____________
____________	____________	____________
____________	____________	____________"

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk ***or the Secretary of State*** shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk ***or the Secretary of State*** shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(6) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk ***or the Secretary of State***, dies or notifies the clerk ***or the Secretary of State*** in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(7) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

Section 7. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. ***The*** [~~Such~~] names shall be certified as follows:

(a) Not less than eighty (80) days before a primary;

(b) Not less than sixty-two (62) days before a general election, such certification to include only candidates to federal office; and

(c) Not less than fifty-seven (57) days before a general election, such certification to include all candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates whose nominating petitions are filed with the county clerk ***or the Secretary of State*** shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section does not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for ***the*** [~~such~~] city offices grouped according to the offices they seek, and ***the*** [~~such~~] candidates shall be immediately arranged with and designated by the title of office ***the*** [~~such~~] candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which ***the*** [~~such~~] candidates are to be elected shall be clearly separated from other groups on the ballot and spaced [~~so as~~] to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not less than seventy (70) days before the primary or fifty (50) days before the general election. The State Board of Elections shall meet within five (5) days of ***the*** [~~such~~] notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote. [~~, provided that~~] All candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 8. KRS 118.356 is amended to read as follows:

(1) Certificates and petitions of nomination shall, in the case of candidates voted for by the state at large***,*** [~~or~~] by a district greater than one (1) county, ***or by a city whose boundaries extend beyond those of a single county,*** be filed with the Secretary of State. In the case of candidates voted for by a county or by a district less than a county, they shall be filed with the county clerk. [~~Provided however,~~] In the case of candidates for Congress and for General Assembly, they shall be filed with the Secretary of State.

(2) Certificates of nomination at a primary election held under this chapter shall be filed by the State Board of Elections or the county board of elections, depending upon which one issued the certificate. Certificates and petitions of nomination shall be filed by the candidate or by someone on his behalf.

Section 9. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. ***The*** [~~Such~~] certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices ***except as provided in this Act***, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not less than sixty-eight (68) days before the day fixed by law for the holding of regular elections.

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file ***the*** [~~such~~] statements [~~as are~~] required by KRS 118.325(3), with the official designated in

KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not less than sixty-eight (68) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to three (3) months before the general election, shall be filed [~~by such petitions~~] not later than sixty-eight (68) days prior to the general election.

(6) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not less than one hundred twenty (120) days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not less than sixty-eight (68) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than sixty-eight (68) days prior to the date fixed by law for the election of ***the*** [~~such~~] electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 10. KRS 118.425 is amended to read as follows:

(1) The State Board of Elections shall issue certificates of election where the successful candidate was voted for by the state at large***,*** [~~or~~] by a district greater than one (1) county, ***by a city whose boundaries extend beyond those of a single county,*** or was a candidate for member of Congress or the General Assembly.

(2) The county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of Congress, members of the General Assembly and designated officers filing with the State Board of Elections. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

(3) In the case of all offices voted for, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for ***the*** [~~such~~] office and the total number of votes for and against each of ***the*** [~~such~~] questions. The clerk shall keep one (1) of the certificates in his office. He shall not later than three (3) days after receiving ***the*** [~~such~~] certificate from the board, forward the other certificate by mail to the Secretary of State who shall deliver it to the State Board of Elections.

(4) The State Board of Elections shall meet, to count and tabulate the votes received by the different candidates as certified to the Secretary of State, when the returns are all in, or on the third Monday after the election whether they are in or not, but if all the returns are not made, the right to contest an election shall not be impaired. A majority of the members of the board shall constitute a quorum and may act. The board shall make out the certificates of election in the office of the board[~~,~~] from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate. The duplicate shall be retained in the office of the board. In the case of the election of a representative in Congress, an additional certificate shall be made and sent, by mail, to the clerk of the House of Representatives.

(5) The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in ***the*** [~~such~~] manner [~~as~~] the board directs, in the presence of not less than three (3) other persons. In the case of elections for electors of President and Vice President of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for President and Vice President received the highest number of votes and the determination by the board that the candidates of any political

party or organization for President and Vice President have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

HB 616, AN ACT relating to the merger of contiguous cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81.420 is amended to read as follows:

(1) [~~Such~~] Elections shall be held not less than thirty (30) days nor more than sixty (60) days after the last of ***the*** [~~said~~] ordinances is enacted. The qualifications of voters and all other matters in regard to the election shall be governed by the general election laws. The question shall be submitted in substantially the following form:

"Are you in favor of merging or consolidating the city of __________________ and the city of __________________ into one city, to be known as the city of __________________"?

yes ____
no ____

(2) If a majority of the legal votes cast at ***the*** [~~such~~] election in all of the cities, each city being a separate unit in the elections, proposing to merge or consolidate shall favor the merger or consolidation, then thirty (30) days after the certification of the results of ***the*** [~~such~~] election ***the*** [~~said~~] cities shall become one (1) city of the class ***and organizational structure*** of the largest of the old cities, but if a majority of the legal voters in either city vote "No," the merger or consolidation shall fail.

Section 2. KRS 81.430 is amended to read as follows:

(1) The members of the legislative bodies of the merging cities shall continue to hold their offices in the new city, until their respective terms of office expire, and shall constitute a combined legislative body of the new city.

(2) At the expiration of the terms of office of the combined legislative body members, which in no case shall be greater than two (2) years, an election shall be held to elect the correct member of legislative body members as required by the organizational structure of the city pursuant to KRS 83A.030. The election shall be governed by the general election laws and shall be held at the same time as other city elections.

(3) If any member of the combined legislative body resigns his office prior to the expiration of the term of the office, the resignation shall be subject to one (1) of the following provisions:

(a) If after the resignation, the total number of combined legislative body members is greater than will be required by the organizational structure for the legislative body of the newly merged city, the vacancy shall not be filled and the provisions of KRS 83A.040 shall not apply; or

(b) If after the resignation, the total number of combined legislative body members is less than will be required by the organizational structure for the legislative body of the newly merged city, the vacancy shall be filled as provided by KRS 83A.040

HB 695, AN ACT relating to the establishment of management districts in cities of the second through sixth class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Board" means any appointed board of directors, or any existing governmental agency designated pursuant to the ordinance establishing a management district;

(2) "City" means a city of the second through sixth class;

(3) "Economic improvement" means any activity or service for the improvement and promotion of a management district that is of special benefit to property within the district, but shall not include any service ordinarily provided throughout the city from general fund revenues unless an increased level of the service is provided in the management district;

(4) "Fair basis" means assessed value basis, front foot basis, square foot basis or benefits received basis;

(5) "Legislative body" means the legislative body of any city of the second through sixth class;

(6) "Management district" means an area designated by a legislative body pursuant to this Act; that is to be benefited by economic improvements and subjected to the payment of special assessments for the costs of the economic improvements;

(7) "Property" means any real property benefited by economic improvements; and

(8) "Special assessment" means a special charge fixed on property to finance economic improvements in whole or in part.

SECTION 2. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

A city of the second through sixth class may establish one (1) or more management districts pursuant to this Act, for the purpose of providing and financing economic improvements that specially benefit property within the management district.

SECTION 3. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) A city may initiate proceedings to establish a management district upon receipt by the mayor of a written petition requesting the formation of a management district. A petition requesting the formation of a management district shall contain:

(a) The signatures and addresses of a number of real property owners, who together are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the proposed management district;

(b) An accurate description of the boundaries of the proposed management district;

(c) An economic improvement plan that shall provide:

1. A description of the economic improvements to be provided within the district;

2. A preliminary estimate of the annual costs of the proposed economic improvements; and

3. The proposed method of assessing the costs of the economic improvements against the properties;

(d) The proposed makeup of the board of the management district, its powers and duties; and

(e) The number of years in which the assessments are proposed to be levied, not to exceed five (5) years.

(2) When a petition satisfying the requirements of subsection (1) of this section is received by the mayor, he shall forward it to the legislative body which may proceed to enact an ordinance establishing a management district as provided in Section 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) An ordinance establishing a management district shall include, but not be limited to, the following provisions:

(a) An accurate description of the boundaries of the management district designated either by map or perimeter description;

(b) A description of the economic improvements that may be undertaken within the management district by its board, including but not limited to:

1. The planning, administration and management of development or improvement activities;

2. Landscaping, maintenance and cleaning of public ways and spaces;

3. The promotion of commercial activity or public events;

4. The conduct of activities in support of business recruitment and development;

5. The provision of security for public areas;

6. The construction and maintenance of capital improvements to public ways and spaces; and

7. Any other economic improvement activity that specially benefits property;

(c) A requirement that the legislative body approve the annual budget and annual economic improvement plan for the district and establish a procedure and schedule for such approval;

(d) The method of assessment of the properties that may include any fair basis authorized by KRS 91A.200 through 91A.290;

(e) The method for collection of the assessment;

(f) The number of years, not exceeding five (5) years, that the assessments shall be levied;

(g) A method by which the annual increase in assessments caused by inflation, new growth and other factors shall be limited;

(h) The makeup of the board for the management district and its powers and duties; and

(i) Any other provisions deemed necessary by the legislative body to implement the provisions of this Act.

(2) After the first reading of the ordinance to establish the management district, but prior to its second reading and passage, a public hearing on the question of the establishment of the management district shall be held by the legislative body.

(3) A summary of the proposed plan for the management district shall be published in a newspaper in accordance with KRS Chapter 424 no less than twice, at least seven (7) but not earlier than twenty-one (21) days before the date of the public hearing. Notice shall also specify the date, time and place of the hearing. In addition, a copy of the proposed ordinance and the notice of the hearing shall be mailed, by first class mail, to all property owners within the proposed management district.

(4) After the public hearing, the legislative body may give second reading to the ordinance that shall become effective if passed and approved pursuant to KRS 83A.060.

(5) After the establishment of a management district, the legislative body shall not decrease the level of publicly funded services in the management district existing prior to the creation of the district or transfer the burden of providing the services, unless the services at the same time are decreased throughout the city.

SECTION 5. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Upon the effective date of the ordinance establishing the management district, the board shall implement the economic improvement plan adopted by the legislative body.

(2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the plan and budget to the legislative body for its approval.

(3) Upon approval of the economic improvement plan and annual budget, the board shall publish both pursuant to KRS Chapter 424 and shall mail by first class mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.

(4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.

(a) The board may be directed to annually prepare and mail by first class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or

(b) The annual assessment may be collected in the same manner, at the same times and by the office authorized by law for the collection and enforcement of general city taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.

(c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his property. The contest shall be filed with the board within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board and present evidence. A record shall be made of

the proceedings and the board shall render a written decision. The decision of the board may be appealed to the Circuit Court of the county in which the city is located.

(5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal taxes, and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city legislative body or the board shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

SECTION 6. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by the board.

(2) The number of members of the board, their terms and qualifications, shall be established by the ordinance creating the district. No fewer than a majority of the board shall be property owners within the district. The board members shall be appointed by the mayor of the city, with the approval of the legislative body.

(3) The powers of the board shall include all powers set forth in this Act and the ordinance establishing the management district. The board may employ or contract with persons to assist it in its responsibilities.

(4) The board shall manage the fiscal affairs of the management district and shall adopt regulations governing the investment and disbursement of funds. The board may borrow money on a short term basis as required. The board may hold funds in the name of the management district or may designate the city as the fiscal agent for the management district. Money derived from the assessments imposed pursuant to this Act shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes. As soon as practicable after the close of the fiscal year, the board shall cause an audit to be performed of all funds of the management district by a certified public accountant.

(5) In addition to receiving funds from assessments, the board shall be authorized to receive grants, donations and gifts.

SECTION 7. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The boundaries of the management district may be changed at any time by the legislative body in the same manner as provided in this Act for the establishment of the management district.

(2) The management district may be renewed for subsequent periods, not to exceed five (5) years, by the legislative body. Prior to such renewal, the board shall prepare an economic improvement plan for the renewal period. The ordinance establishing the management district may provide for automatic renewals if the economic improvement plan is prepared for the renewal period. The management district shall not be renewed if a petition is received that objects to the renewal and is signed by a number of real property owners, who together are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the management district.

(3) The management district shall be dissolved by the legislative body upon the receipt of a petition requesting dissolution that is signed by a number of real property owners who together are the owners of real property within the management district equal to at least seventy-five percent (75%) of the assessed value of the property within the management district.

(4) If a management district is terminated or not renewed for a subsequent period, and after the payment of all obligations and costs of administration incurred on behalf of the management district, there remain excess funds from assessments paid by property owners, the city shall by ordinance provide for:

(a) The return of any excess funds to the owners of properties in amounts proportionate to the amounts of the assessments they paid for the district; or

(b) Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or

(c) Use of part of the excess funds for continued provision of economic improvements and return of the balance of the excess funds in proportionate amounts to affected property owners.

The Committee Amendment No. 1 to **HB 695** is as follows:

Amend printed copy of **HB 695** on page 2, line 26, after the word "***of***" by inserting the following new language, "***fifty-one percent (51%) or more of the properties within the proposed district and who are the owners of***"; and

On page 10, line 23, after the word "***of***" by inserting the following new language, "***fifty-one percent (51%) or more of the properties within the proposed district and who are the owners of***"; and

On page 10, line 25, by deleting "***seventy-five percent (75%)***" and inserting in lieu thereof, "***fifty-one percent (51%)***".

HB 697, AN ACT relating to policemen's and firemen's retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "Fund" shall mean the "Policemen's and Fire fighter's Retirement Fund of the ______ Urban-County Government";

(2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;

(3) "Department" shall mean the police department or the fire department of a government;

(4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;

(5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;

(6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;

(7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(9) "Total service" shall mean prior service, membership service, and military service;

(10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;

(11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;

(12) "Occupational death" shall mean death due to occupational causes, including but not limited to injury or disease;

(13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);

(14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

(15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;

(16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;

(17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education; and

(18) "Mayor," "***commissioner*** [~~director~~] of finance," ***"commissioner of public safety," and*** "director of personnel" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described.

Section 2. KRS 67A.450 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least five (5) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, but not less than fifteen percent (15%) of average salary, subject to the following conditions:

(a) The widow had been married to the member at least six (6) months prior to his death;

(b) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23).

(2) If, in addition to a widow, minor children survive the member, an additional annuity shall be payable for such children equal to fifty percent (50%) of the amount of the widow's annuity for the first child, and twenty-five percent (25%) of the amount of the widow's annuity for each additional child, subject to a maximum combined payment for the widow and children of seventy-five percent (75%) of the member's average salary. The annuity payable for minor children shall be divided and paid in equal amounts for each child to the parent or guardian of each child under eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. As eligibility of children expires, the total annuity payable for such children shall be reduced by percentage amount in reverse order.

(3) If the member is not survived by a widow who qualifies under KRS 67A.450(1)(a) and there are minor children the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children ten percent (10%) additional, subject to a maximum combined payment of seventy-five percent (75%) of the average salary as defined in KRS 67A.360(13). The benefits payable for minor children shall be divided and paid in equal amounts for each child to the parent or legal guardian of each child under the age of eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order, as provided in subsection (2) of this section.

[~~(4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least six (6) months before retirement.~~]

Section 3. KRS 67A.510 is amended to read as follows:

(1) Each active member shall contribute a sum equal to not less than ***ten percent (10%)*** [~~eight percent (8%)~~] nor more than ***twelve percent (12%)*** [~~ten percent (10%)~~] of current salary, to be determined by the legislative body of the urban-county government. The ***commissioner*** [~~director~~] of finance of the government is hereby authorized to deduct such amount from the salary of each active member in semimonthly installments. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982 employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the

United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 4. KRS 67A.520 is amended to read as follows:

The government shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every three (3) years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least three (3) years. The government's rate of contribution shall be at least fifteen percent (15%)***, but not more than eighteen percent (18%),*** of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the circuit court of any county in which the government is located an injunction or mandamus requiring the government to comply herewith.

Section 5. KRS 67A.530 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of ***eleven (11)*** [~~nine (9)~~] members, consisting of the mayor, ***the commissioner of public safety,*** the ***commissioner*** [~~director~~] of finance, the director of personnel, ***one (1) retired member of the fund,*** the chiefs of the police and fire department, and two (2) active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two (2) years under rules adopted by the board. One of the active members representing each department shall be elected on even-numbered years; and the other active member representing such department shall be elected on odd-numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.

(2) ***The retired fund member shall be selected by retired fund members by ballot to serve a two (2) year term. Retired fund members shall submit the names of at least three (3) nominees to the pension board not less than three (3) months before the term of office is due to expire. For the term beginning October 15, 1990, names of nominees shall be submitted to the pension board by no later than July 15, 1990. The pension board shall cause to be prepared an official ballot which shall be distributed to all retired fund members by mail to their last known address. The ballot shall contain the name, address, and former position of each of the three (3) candidates. Retired fund members shall vote for one (1) candidate by marking a square opposite the name of the candidate of his choice and returning the marked ballot to the secretary of the pension board. Votes shall be tabulated by a committee of three (3) pension board members appointed by the chairman for that purpose. The tabulating committee shall report in writing to the pension board the results of the election and the name of the retired fund member who shall serve on the board. In the event of a vacancy of an elected retired fund member of the board, the pension board shall fill the vacancy by appointment until the next regular election.***

(3) It is the intention of KRS 67A.360 to 67A.690 that the one elected member from each department on the pension boards of funds serving immediately prior to the adoption of the urban county form of government shall retain ***his*** [~~their~~] office for one (1) year, and that the other elected member from each department shall be elected for a two (2) year term.

Section 6. KRS 67A.560 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The ***commissioner*** [~~director~~] of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The ***commissioner*** [~~director~~] of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The ***commissioner*** [~~director~~] of law of the government shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the pension fund.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every three (3) years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

Section 7. KRS 67A.570 is amended to read as follows:

The board may invest the moneys accruing to the fund, in interest-bearing bonds of any county, urban county government or city of the first, second or third class in this Commonwealth, or in any securities in which trustees are permitted to invest trust funds under the laws of this Commonwealth. Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be deposited with the ***commissioner*** [~~director~~] of finance and shall be subject to the order of the board. The board may at the cost of the pension fund employ or engage consultants to provide investment advice to aid the board in its determinations.

Section 8. KRS 67A.590 is amended to read as follows:

(1) The officers of the government designated by law to draw warrants on the government treasury, shall on request in writing by the board, draw warrants on the ***commissioner*** [~~director~~] of finance, payable to the treasurer of the board, against moneys of the fund.

(2) Moneys ordered paid from the fund to any person shall be paid by the treasurer only, upon warrant signed by the president of the board and countersigned by the secretary. No warrant shall be drawn except by order of the board duly entered on the record of proceedings of the board.

Section 9. KRS 67A.620 is amended to read as follows:

(1) The right to a retirement annuity, disability annuity, survivor's annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, ***garnishment, execution,*** or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding.

(2) Any retirement benefit, disability benefit, survivor's benefit or refund granted under the provisions hereof shall not be classified as marital property pursuant to KRS 403.190(1), nor shall any such annuity, benefit or refund be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

Section 10. KRS 67A.600 is amended to read as follows:

(1) It is the intention of KRS 67A.360 to 67A.690 that the fund herein created shall supersede and take the place of the pension fund established under KRS 95.851 to 95.884 inclusive, for cities of the second class becoming urban-county governments, which sections shall be without force and effect, insofar as applicable to such urban-county governments, but said sections shall remain in full force and effect as relates to other cities of the second class.

(2) The fund created by KRS 67A.360 to 67A.690 shall succeed to and assume as of July 1, 1974, all assets of such pension funds, and shall continue to make payment of all annuities, pensions, and benefits granted by superseded pension funds at the rates previously fixed and under the conditions previously in effect, except as provided in subsection (3) of this section.

(3) (a) Persons who retired under the provisions of KRS 95.520 to 95.620, or 95.851 to 95.884 in a city which subsequently was merged into an urban-county government, or their surviving spouses or eligible children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded, from July 1, 1974, until July 15, ***1980 and annual increases compounded, from July 15, 1980 until July 15, 1990 in the same percentage amount by which the pension board increased other pensions pursuant to KRS 67A.690(1) for those same years*** [~~1988~~]. The survivor's annuity shall be determined as if the retired member's annuity had been increased annually by two percent (2%) compounded from ***July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980 until July 15, 1990 in the same percentage amount by which the pension board increased other pensions pursuant to KRS 67A.690(1) for those same years*** [~~the date of retirement until the date of death~~]. For purposes of calculation, the member's or survivor's first increase shall occur July 1, 1974, but only after the member was retired for one (1) year or attained age fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51), whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51), unless retirement was under disability, in which case age and length of retirement criteria shall not apply.

(b) After calculation of the new annuity level, persons affected by this section shall be granted the same annual increase granted to retirees pursuant to KRS 67A.690(1), and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded [~~two percent (2%)~~] increases ***calculated*** pursuant to paragraph (a) of this subsection. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired pursuant to KRS 67A.690(1) shall apply. In addition, each annuitant or surviving spouse or eligible child shall receive a one-time lump sum payment of five hundred dollars ($500).

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to 1972 Acts Chapter 185, Section 1, but each such retiree or surviving spouse shall receive a one-time lump sum payment of five hundred dollars ($500). If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to 1972 Acts Chapter 185, Section 1.

Section 11. KRS 67A.690 is amended to read as follows:

(1) When a member has been retired for one (1) year or attained fifty-one (51) years of age, whichever is later, or when he would have been retired for one (1) year or attained fifty-one (51) years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.

(2) Notwithstanding the provisions of subsection (1), any member who retires under disability shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall be compounded until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained fifty-one (51) years of age, whichever is later, or would have been retired for one (1) year or would have attained fifty-one (51) years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.

(3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded from ***July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980, until July 15, 1990 in the same percentage amount by which the pension board increased other pensions pursuant to subsection (1) of this section for those same years*** [~~the date of retirement until July 15, 1988~~]. For purposes of calculation, unless the member retired under disability, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained the age of fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51) whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51). In the case of retirement under disability, no age or length of retirement criteria shall apply.

(b) After calculation of the new annuity level, members of age fifty-one (51) or more affected by this subsection, or survivors of a member who would have been fifty-one (51) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980, or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded [~~two percent (2%)~~] increases ***calculated*** pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, ***1990*** [~~1988~~]. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired July 15, 1980, or thereafter shall apply.

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

SECTION 12. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

(1) Once each year following the retirement of a member on a disability retirement allowance, the board may require the person, prior to his normal retirement date, to undergo a medical examination. Should he refuse to submit to any such medical examination, his retirement allowance shall be discontinued until his withdrawal of his refusal, and should his refusal continue for one (1) year, all his rights to any further disability allowance shall cease. Any member whose medical examination reveals that he is no longer totally and permanently disabled within the meaning of KRS 67A.360(16) shall be disqualified from further receipt of disability benefits.

(2) (a) Once each year following the retirement of a member on a disability retirement allowance the board shall require the person, prior to his normal retirement date, to complete and return to the board a statement indicating whether he is employed, the name of his employer, if any, and a description of his job duties. The board shall discontinue the disability benefits of any member for the duration of his refusal to provide the board with employment information. Any member who fails to provide the information to the board within one (1) year after the initial request shall lose his right to any further disability benefits.

(b) The board shall have the right to terminate the disability retirement benefits of any member who is employed in an occupation which is essentially similar to that of his former employment, either in job classification, similarity of duties or which otherwise demonstrates that the member is performing activities

for which he earlier claimed he was disabled from performing. For the purpose of this section, members who were sworn police officers may not hold a sworn position as peace officer and continue to receive disability benefits.

SECTION 13. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

Any member who was honorably discharged from any branch of the armed services of the United States may purchase service credit for up to a maximum of four (4) years of active military service within five (5) years from July 15, 1990 or from the date he becomes a member of the fund, whichever occurs later. A member who purchases service credit for military service shall pay to the fund in a lump sum one hundred percent (100%) of an amount which shall be determined by actuarial method consistent with the methods prescribed for determining the purchase of prior service credit.

SECTION 14. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

(1) Any member who retires based on age and service on January 1, 1990, or thereafter, may purchase service credit for unused sick leave accrued while contributing to the retirement fund from which the retirement benefit is to be paid in accordance with this section.

(2) A member retiring based on age and service who chooses to purchase service credit for unused, accumulated sick leave as provided in this section shall notify the board of his intention upon submitting his retirement application to the board. The urban-county government shall certify the retiring member's unused, accumulated sick leave balance, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1008) hours for members employed by the division of fire. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month and rounded to the nearest number of whole months. This number of months shall be added to the member's service credit for the purpose of determining his rate of retirement annuity pursuant to KRS 67A.430 and his total service credit pursuant to KRS 67A.400. The value of the unused, accumulated sick leave shall be based on the daily salary rate calculated from the member's last annual salary. Payment for unused sick leave, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1008) hours for members employed by the division of fire, shall be incorporated into the annual salary of the final year of service, provided that the member contributes to the retirement fund the amount set forth in KRS 67A.510 and the urban-county government matches such contribution by the amount set forth in KRS 67A.520(1) on the unused, accumulated sick leave.

SECTION 15. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

(1) Upon the death of a retired member, his surviving widow shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's average salary, whichever is greater. The surviving widow must have been married to the member for at least six (6) months prior to retirement in order to be eligible for the benefits provided in this section.

(2) Any member who retires on July 15, 1990, or thereafter, shall have the option at retirement to purchase an increased annuity allowance for his surviving widow. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him. The member may elect either of two (2) options:

(a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his lifetime and have seventy-five percent (75%) of such retirement allowance continue after his death to his eligible widow until her death or remarriage.

(b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued at the same rate after his death to his eligible widow until her death or remarriage.

Section 16. KRS 67A.460 is amended to read as follows:

In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to seventy-five percent (75%) of his last rate of salary. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. ***At the member's death, his eligible widow, if any, shall receive the benefits as provided under Section 15 of this Act, and his minor children, if any, shall receive benefits as provided under KRS 67A.440*** [~~Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under KRS 67A.440~~].

Section 17. KRS 67A.470 is amended to read as follows:

(1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least five (5) years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent (2 1/2%) of the average salary, as defined in KRS 67A.360(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary and a maximum payment of seventy-five percent (75%) of average salary. Payment of this annuity shall be made during disability of the member. ***After the member's death, his eligible widow, if any, shall receive the benefits as provided in Section 15 of this Act, and his minor children, if any, shall receive benefits as provided under KRS 67A.450*** [~~Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 67A.450~~].

(2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

The Committee Substitute to **HB 697** is as follows:

HB 697, AN ACT relating to policemen's and firemen's retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "Fund" shall mean the "Policemen's and Fire fighter's Retirement Fund of the ______ Urban-County Government";

(2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;

(3) "Department" shall mean the police department or the fire department of a government;

(4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;

(5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;

(6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;

(7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(9) "Total service" shall mean prior service, membership service, and military service;

(10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;

(11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;

(12) "Occupational death" shall mean death due to occupational causes, including but not limited to injury or disease;

(13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);

(14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

(15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;

(16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;

(17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education; and

(18) "Mayor," "***commissioner*** [~~director~~] of finance," ***"commissioner of public safety," and*** "director of personnel" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described.

Section 2. KRS 67A.450 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least five (5) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, but not less than fifteen percent (15%) of average salary, subject to the following conditions:

(a) The widow had been married to the member at least six (6) months prior to his death;

(b) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23).

(2) If, in addition to a widow, minor children survive the member, an additional annuity shall be payable for such children equal to fifty percent (50%) of the amount of the widow's annuity for the first child, and twenty-five percent (25%) of the amount of the widow's annuity for each additional child, subject to a maximum combined payment for the widow and children of seventy-five percent (75%) of the member's average salary. The annuity payable for minor children shall be divided and paid in equal amounts for each child to the parent or guardian of each child under eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. As eligibility of children expires, the total annuity payable for such children shall be reduced by percentage amount in reverse order.

(3) If the member is not survived by a widow who qualifies under KRS 67A.450(1)(a) and there are minor children the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children ten percent (10%) additional, subject to a maximum combined payment of seventy-five percent (75%) of the average salary as defined in KRS 67A.360(13). The benefits payable for minor children shall be divided and paid in equal amounts for each child to the parent or legal guardian of each child under the age of eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order, as provided in subsection (2) of this section.

[~~(4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least six (6) months before retirement.~~]

Section 3. KRS 67A.510 is amended to read as follows:

(1) Each active member shall contribute a sum equal to not less than ***ten and one-half percent (10 1/2%)*** [~~eight percent (8%)~~] nor more than ***eleven percent (11%)*** [~~ten percent (10%)~~] of current salary, to be determined by the legislative body of the urban-county government. The ***commissioner*** [~~director~~] of finance of the government is hereby authorized to deduct such amount from the salary of each active member in

semimonthly installments. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982 employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 4. KRS 67A.520 is amended to read as follows:

The government shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every three (3) years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least three (3) years. [~~The government's rate of contribution shall be at least fifteen percent (15%) of the salaries of the active members participating in the fund.~~]

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) ***In any event, the total contribution of the government shall be at least seventeen percent (17%) of the salaries of the active members participating in the fund.***

(4) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the circuit court of any county in which the government is located an injunction or mandamus requiring the government to comply herewith.

Section 5. KRS 67A.530 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of ***eleven (11)*** [~~nine (9)~~] members, consisting of the mayor, ***the commissioner of public safety,*** the ***commissioner*** [~~director~~] of finance, the director of personnel, ***one (1) retired member of the fund,*** the chiefs of the police and fire department, and two (2) active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two (2) years under rules adopted by the board. One of the active members representing each department shall be elected on even-numbered years; and the other active member representing such department shall be elected on odd-numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.

(2) ***The retired fund member shall be selected by retired fund members by ballot to serve a two (2) year term. Retired fund members shall submit the names of at least three (3) nominees to the pension board not less than three (3) months before the term of office is due to expire. For the term beginning October 15, 1990, names of nominees shall be submitted to the pension board by no later than July 15, 1990. The pension board shall cause to be prepared an official ballot which shall be distributed to all retired fund members by mail to their last known address. The ballot shall contain the name, address, and former position of each of the three (3) candidates. Retired fund members shall vote for one (1) candidate by marking***

a square opposite the name of the candidate of his choice and returning the marked ballot to the secretary of the pension board. Votes shall be tabulated by a committee of three (3) pension board members appointed by the chairman for that purpose. The tabulating committee shall report in writing to the pension board the results of the election and the name of the retired fund member who shall serve on the board. In the event of a vacancy of an elected retired fund member of the board, the pension board shall fill the vacancy by appointment until the next regular election.

(3) It is the intention of KRS 67A.360 to 67A.690 that the one elected member from each department on the pension boards of funds serving immediately prior to the adoption of the urban county form of government shall retain ***his*** [~~their~~] office for one (1) year, and that the other elected member from each department shall be elected for a two (2) year term.

Section 6. KRS 67A.560 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The ***commissioner*** [~~director~~] of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The ***commissioner*** [~~director~~] of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The ***commissioner*** [~~director~~] of law of the government shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the pension fund.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every three (3) years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

Section 7. KRS 67A.570 is amended to read as follows:

The board may invest the moneys accruing to the fund, in interest-bearing bonds of any county, urban county government or city of the first, second or third class in this Commonwealth, or in any securities in which trustees are permitted to invest trust funds under the laws of this Commonwealth. Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be deposited with the ***commissioner*** [~~director~~] of finance and shall be subject to the order of the board. The board may at the cost of the pension fund employ or engage consultants to provide investment advice to aid the board in its determinations.

Section 8. KRS 67A.590 is amended to read as follows:

(1) The officers of the government designated by law to draw warrants on the government treasury, shall on request in writing by the board, draw warrants on the ***commissioner*** [~~director~~] of finance, payable to the treasurer of the board, against moneys of the fund.

(2) Moneys ordered paid from the fund to any person shall be paid by the treasurer only, upon warrant signed by the president of the board and countersigned by the secretary. No warrant shall be drawn except by order of the board duly entered on the record of proceedings of the board.

Section 9. KRS 67A.620 is amended to read as follows:

The right to a retirement annuity, disability annuity, survivor's annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, ***garnishment, execution,*** or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding.

Section 10. KRS 67A.600 is amended to read as follows:

(1) It is the intention of KRS 67A.360 to 67A.690 that the fund herein created shall supersede and take the place of the pension fund established under KRS 95.851 to 95.884 inclusive, for cities of the second class becoming urban-county governments, which sections shall be without force and effect, insofar as applicable to such urban-county governments, but said sections shall remain in full force and effect as relates to other cities of the second class.

(2) The fund created by KRS 67A.360 to 67A.690 shall succeed to and assume as of July 1, 1974, all assets of such pension funds, and shall continue to make payment of all annuities, pensions, and benefits granted by superseded pension funds at the rates previously fixed and under the conditions previously in effect, except as provided in subsection (3) of this section.

(3) (a) Persons who retired under the provisions of KRS 95.520 to 95.620, or 95.851 to 95.884 in a city which subsequently was merged into an urban-county government, or their surviving spouses or eligible children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded, from July 1, 1974, until July 15, ***1980 and annual increases compounded, from July 15, 1980 until July 15, 1990 in the same percentage amount by which the pension board increased other pensions pursuant to KRS 67A.690(1) for those same years*** [~~1988~~]. The survivor's annuity shall be determined as if the retired member's annuity had been increased annually by two percent (2%) compounded from ***July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980 until July 15, 1990 in the same percentage amount by which the pension board increased other pensions pursuant to KRS 67A.690(1) for those same years*** [~~the date of retirement until the date of death~~]. For purposes of calculation, the member's or survivor's first increase shall occur July 1, 1974, but only after the member was retired for one (1) year or attained age fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51), whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51), unless retirement was under disability, in which case age and length of retirement criteria shall not apply.

(b) After calculation of the new annuity level, persons affected by this section shall be granted the same annual increase granted to retirees pursuant to KRS 67A.690(1), and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded [~~two percent (2%)~~] increases ***calculated*** pursuant to paragraph (a) of this subsection. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired pursuant to KRS 67A.690(1) shall apply. In addition, each annuitant or surviving spouse or eligible child shall receive a one-time lump sum payment of five hundred dollars ($500).

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to 1972 Acts Chapter 185, Section 1, but each such retiree or surviving spouse shall receive a one-time lump sum payment of five hundred

dollars ($500). If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to 1972 Acts Chapter 185, Section 1.

Section 11. KRS 67A.690 is amended to read as follows:

(1) When a member has been retired for one (1) year or attained fifty-one (51) years of age, whichever is later, or when he would have been retired for one (1) year or attained fifty-one (51) years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.

(2) Notwithstanding the provisions of subsection (1), any member who retires under disability shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall be compounded until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained fifty-one (51) years of age, whichever is later, or would have been retired for one (1) year or would have attained fifty-one (51) years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.

(3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded from ***July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980, until July 15, 1990 in the same percentage amount by which the pension board increased other pensions pursuant to subsection (1) of this section for those same years*** [~~the date of retirement until July 15, 1988~~]. For purposes of calculation, unless the member retired under disability, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained the age of fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51) whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51). In the case of retirement under disability, no age or length of retirement criteria shall apply.

(b) After calculation of the new annuity level, members of age fifty-one (51) or more affected by this subsection, or survivors of a member who would have been fifty-one (51) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980, or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded [~~two percent (2%)~~] increases ***calculated*** pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, ***1990*** [~~1988~~]. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired July 15, 1980, or thereafter shall apply.

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

SECTION 12. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

(1) Once each year following the retirement of a member on a disability retirement allowance, the board may require the person, prior to his normal retirement date, to undergo a medical examination. Should he refuse to submit to any such medical examination, his retirement allowance shall be discontinued until his withdrawal of his refusal, and should his refusal continue for one (1) year, all his rights to any further disability allowance shall cease. Any member whose medical examination reveals that he is no longer totally and permanently disabled within the meaning of KRS 67A.360(16) shall be disqualified from further receipt of disability benefits.

(2) (a) Once each year following the retirement of a member on a disability retirement allowance the board shall require the person, prior to his normal retirement date, to complete and return to the board a statement indicating whether he is employed, the name of his employer, if any, and a description of his job duties. The board shall discontinue the disability benefits of any member for the duration of his refusal

to provide the board with employment information. Any member who fails to provide the information to the board within one (1) year after the initial request shall lose his right to any further disability benefits.

(b) The board shall have the right to terminate the disability retirement benefits of any member who is employed in an occupation which is essentially similar to that of his former employment, either in job classification, similarity of duties or which otherwise demonstrates that the member is performing activities for which he earlier claimed he was disabled from performing. For the purpose of this section, members who were sworn police officers may not hold a sworn position as peace officer and continue to receive disability benefits.

SECTION 13. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

Any member who was honorably discharged from any branch of the armed services of the United States may purchase service credit for up to a maximum of four (4) years of active military service within five (5) years from July 15, 1990 or from the date he becomes a member of the fund, whichever occurs later. A member who purchases service credit for military service shall pay to the fund in a lump sum one hundred percent (100%) of an amount which shall be determined by actuarial method consistent with the methods prescribed for determining the purchase of prior service credit.

SECTION 14. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

(1) Any member who retires based on age and service on January 1, 1990, or thereafter, may purchase service credit for unused sick leave accrued while contributing to the retirement fund from which the retirement benefit is to be paid in accordance with this section.

(2) A member retiring based on age and service who chooses to purchase service credit for unused, accumulated sick leave as provided in this section shall notify the board of his intention upon submitting his retirement application to the board. The urban-county government shall certify the retiring member's unused, accumulated sick leave balance, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1,008) hours for members employed by the division of fire. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month and rounded to the nearest number of whole months. This number of months shall be added to the member's service credit for the purpose of determining his rate of retirement annuity pursuant to KRS 67A.430 and his total service credit pursuant to KRS 67A.400. The value of the unused, accumulated sick leave shall be based on the daily salary rate calculated from the member's last annual salary. Payment for unused sick leave, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1,008) hours for members employed by the division of fire, shall be incorporated into the annual salary of the final year of service, provided that the member contributes to the retirement fund the amount set forth in KRS 67A.510 and the urban-county government matches such contribution by the amount set forth in KRS 67A.520(1) on the unused, accumulated sick leave.

SECTION 15. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

(1) Upon the death of a retired member, his surviving widow shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater. The surviving widow must have been married to the member for at least six (6) months prior to retirement in order to be eligible for the benefits provided in this section.

(2) Any member who retires on July 15, 1990, or thereafter, shall have the option at retirement to purchase an increased annuity allowance for his surviving widow. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him. The member may elect either of two (2) options:

(a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his lifetime and have seventy-five percent (75%) of such retirement allowance continue after his death to his eligible widow until her death or remarriage.

(b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued at the same rate after his death to his eligible widow until her death or remarriage.

Section 16. KRS 67A.460 is amended to read as follows:

In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to seventy-five percent (75%) of his last rate of salary. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. ***At the member's death, his eligible widow, if any, shall receive the benefits as provided under Section 15 of this Act, and his minor children, if any,***

shall receive benefits as provided under KRS 67A.440 [~~Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under KRS 67A.440~~].

Section 17. KRS 67A.470 is amended to read as follows:

(1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least five (5) years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent (2 1/2%) of the average salary, as defined in KRS 67A.360(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary and a maximum payment of seventy-five percent (75%) of average salary. Payment of this annuity shall be made during disability of the member. ***After the member's death, his eligible widow, if any, shall receive the benefits as provided in Section 15 of this Act, and his minor children, if any, shall receive benefits as provided under KRS 67A.450*** [~~Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 67A.450~~].

(2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

The Committee on Banking and Insurance reported **HB 586**, **HB 605** and **HB 626** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 586, AN ACT relating to health maintenance organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.38-196 is amended to read as follows:

Any certificate, agreement or contract issued in this state by a health maintenance organization which provides coverage for any service which is within the lawful scope of practice of a chiropractor duly licensed under KRS Chapter 312, shall be deemed to provide benefits for such services whether performed by a duly licensed physician, osteopath or chiropractor, notwithstanding any provision contained in the certificate, agreement or contract. ***An enrollee requesting chiropractic treatment for otherwise covered conditions shall not unreasonably be denied chiropractic treatment if treatment of the conditions is within the lawful scope of chiropractic practice.***

HB 605, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.3-315 is amended to read as follows:

(1) Any insurer authorized to write property and casualty insurance in this state shall transmit the following information on its liability insurance experience in this state, itemized for each line of insurance, to the department each year as an addendum to its annual report and to the Legislative Research Commission by the first of ***May*** [~~March~~] each year:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Dividends paid or credited to policyholders;

(d) Losses paid;

(e) Allocated loss adjustment expenses;

(f) The ratio of allocated loss adjustment expenses to losses paid;

(g) Unallocated loss adjustment expenses;

(h) The ratio of unallocated loss adjustment expenses to losses paid;

(i) The total of losses paid and unallocated and allocated loss adjustment expenses;

(j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(k) The number of claims outstanding as of December 31 of each year;

(l) The total amount of losses unpaid as of December 31 of each year;

(m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

(n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and

(o) Net investment income, including net realized capital gains and losses, using appropriate estimates if necessary.

(2) Each health insurer in this state shall transmit the information required in subsection (1) of this section to the department each year as an addendum to its annual report and to the Legislative Research Commission. Each health insurer shall also include in its addendum the percentages obtained by combining incurred claims and increase in policy reserves as a ratio to premiums earned for the most recent calendar year available.

(3) The commissioner shall by October 1, 1988, prescribe by regulation a uniform form to be used by insurers to report only the fifteen (15) items of information listed in subsection (1) of this section to the Legislative Research Commission.

Section 2. KRS 304.4-010 is amended to read as follows:

(1) The commissioner shall by regulation prescribe the fees charged by the commissioner and the services for which fees shall be charged, including the following ***fees*** [~~fee~~]:

(a) For copies of any document on file with the commissioner, per page, fifty cents ($.50); and

(b) For copies of annual statements, per page, one dollar ($1.00) [~~filing agent and solicitor continuing education courses for approval, five dollars ($5) per hour of continuing education credit, with a ten dollar ($10) minimum~~].

(2) All such fees shall be collected in advance.

Section 3. KRS 304.10-140 is amended to read as follows:

Prior to issuance of a license as a surplus lines broker, the applicant shall file with the commissioner, and thereafter for as long as the license remains in effect shall keep in force:

(1) Evidence of financial responsibility in the sum of not less than five hundred thousand dollars ($500,000) per occurrence, and the sum of one million five hundred thousand dollars ($1,500,000) in the aggregate, for all such occurrences within one (1) year, either in the form of an errors and omissions insurance policy ***issued by an authorized insurer***, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. Such policy, bond, deposit, or combination thereof shall not be terminated unless at least thirty (30) days' prior written notice is given to the licensee and the commissioner; and

(2) A bond in favor of the state of Kentucky in the penal sum of twenty thousand dollars ($20,000), with an authorized corporate surety guaranteeing that he will conduct business under the license in accordance with the provisions of this subtitle and that he will promptly remit the taxes required by KRS 304.10-180. The aggregate liability of the surety for any and all claims on any such bond shall in no event exceed the penal sum thereof. No such bond shall be terminated unless not less than thirty (30) days prior written notice thereof is given to the licensee and filed with the commissioner.

SECTION 4. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "preneed funeral contract or prearrangement" means an agreement by or for an individual before that individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

(2) The commissioner shall adopt regulations requiring life insurers to provide disclosure to consumers when life insurance or annuities are used to fund preneed funeral contracts or prearrangements.

Section 5. KRS 304.20-320 is amended to read as follows:

(1) Declinations. An applicant may request in writing an explanation of a declination. The insurer shall provide a prompt written response to such inquiries.

(2) Cancellations.

(a) A notice of cancellation of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer shall be in writing, shall be delivered to the named insured or mailed to the named insured at the last known address of the named insured, shall state the effective date of the cancellation, and shall be accompanied by a written explanation of the specific reason or reasons for the cancellation; and

(b) The notice of cancellation referred to in paragraph (a) of this subsection shall be mailed or delivered by the insurer to the named insured at least fourteen (14) days prior to the effective date of the cancellation if the cancellation ***is for nonpayment of premium or*** occurs within sixty (60) days of the date of issuance of the policy. Such notice of cancellation shall be mailed or delivered by the insurer to the named insured at least seventy-five (75) days prior to the effective date of the cancellation if the policy has been in effect more than sixty (60) days.

(3) Nonrenewals.

(a) No insurer shall refuse to renew a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, written notice of the insurer's intention not to renew the policy upon expiration of the current policy period with a written explanation of the specific reason or reasons for the nonrenewal;

(b) If notice is not provided pursuant to paragraphs (a) and (b) of this subsection, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate premium under the same terms and conditions, and subject to the provisions of KRS 304.20-330, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal;

(c) If the insurer has manifested its willingness to renew by mailing or delivering of a renewal notice, bill, certificate, or policy to the first named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist; and

(d) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date shall constitute a presumption of receipt pursuant to paragraph (c) of this subsection.

(4) No insurer shall increase the premium for a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 more than twenty-five percent (25%) of the premium for the preceding policy term for like coverage and like risks unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, a notice for the renewal premium amount and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium amount. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.

HB 626, AN ACT relating to health benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All individual policies of health insurance which provide coverage on an expense incurred basis for surgical or nonsurgical treatment of any joint or bone disorder, experienced by a covered person, shall provide coverage for all joints or bones in the body on the same terms and conditions.

(2) The requirements of this section shall apply to all policies issued, delivered or renewed in this state on and after January 1, 1991.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All groups or blanket policies of health insurance, and certificates issued thereunder, which provide

coverage on an expense incurred basis for surgical or nonsurgical treatment of any joint or bone disorder, experienced by a covered person, shall provide coverage for all joints or bones in the body on the same terms and conditions.

(2) The requirements of this section shall apply to all policies issued, delivered or renewed in this state on and after January 1, 1991.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All policies, contracts or plans issued in this state, including subscription or membership certificates thereunder, which provide coverage for surgical or nonsurgical treatment of any joint or bone disorder, experienced by a covered person, shall provide coverage for all joints or bones in the body on the same terms and conditions.

(2) The requirements of this section shall apply to all policies, contracts or plans issued, delivered or renewed in this state on and after January 1, 1991.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All contracts, agreements, certificates or other comparable documents of health care services provided which provide coverage for surgical or nonsurgical treatment of any joint or bone disorder, experienced by a covered person, shall provide coverage for all joints or bones in the body on the same terms and conditions.

(2) The requirements of this section shall apply to all contracts, agreements, certificates or other documents providing health care services issued, delivered or renewed in this state on and after January 1, 1991.

Calendar

HB 524, **HB 395**, **HB 628**, **HB 687**, **HB 396**, **HB 428**, **HB 599**, **HB 425**, **SB 166**, **SB 188**, **SB 57** and **SCR 20** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 522 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow floor privileges to C. M. Newton and Dr. Charles Wethington. Agreed.

Mr. Newton and Dr. Wethington briefly addressed the House.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 6**, **SB 7**, **SB 8**, **SB 18**, **SB 31**, **SB 123**, **SB 135**, **SB 170**, **SB 185** and **SJR 36** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:28 p.m.)

Orders of the Day

HB 363, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Strong moved the adoption of Floor Amendment No. 1 to **HB 363**. Agreed.

Representative Farrow moved that **HB 363**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 1, 1990 roll call on **HB 363** - Appendix.)

HB 363, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 363**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 561 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 561** be passed.

Speaker Blandford assumed the Chair.

Orders of the Day (Continued)

On the roll call the vote was: Yeas 95, Nays 0. (See March 1, 1990 roll call on **HB 561** - Appendix.)

HB 561 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 561** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 260 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 260** be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See March 1, 1990 roll call on **HB 260** - Appendix.)

HB 260 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 260** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 459 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **HB 459** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 1, 1990 roll call on **HB 459** - Appendix.)

HB 459 was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 459** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Ballard moved the adoption of the following **HR 165**:

HR 165, A RESOLUTION adjourning the House in loving memory and honor of William T. "Bill" Brinkley.

With deepest respect, we pay homage and tribute to the memory of our beloved friend and colleague, William T. "Bill" Brinkley.

WHEREAS, William T. "Bill" Brinkley, a native of Madisonville, Kentucky, was born on December 15, 1936, and departed this life on March 2, 1989; and

WHEREAS, William T. "Bill" Brinkley was elected to the House of Representatives in 1976, representing the 10th Legislative District and served in this capacity until 1986; and

WHEREAS, William T. "Bill" Brinkley was elected Senator from the 6th Senatorial District in 1987, and represented well his constituents in Caldwell, Hopkins, McLean and Muhlenberg Counties; and

WHEREAS, William T. "Bill" Brinkley was a dedicated public servant whose voice rang with passion for the causes he endorsed; and

WHEREAS, when this honorable body reflects upon the memory of William T. "Bill" Brinkley, it is with fond recollection that we remember him not only for his many legislative accomplishments and the friendships he made and sustained through the years, but also his compassion for and understanding of the common man which he demonstrated daily throughout his life; and

WHEREAS, William T. "Bill" Brinkley was the son of Elizabeth Ellis Brinkley, a loving husband to Betty Sue Jenkins Brinkley, who preceded him in death, and the devoted father of Terri Brinkley Buchanan, Jenny Brinkley Clark and Jeffrey S. Brinkley, and grandfather of four grandchildren; and

WHEREAS, the passing of William T. "Bill" Brinkley has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is indeed saddened by the loss of its friend and colleague, William T. "Bill" Brinkley, and extends to his family and many friends its deepest expression of sympathy.

Section 2. That when the House adjourns this day, Thursday, March 1, 1990, it does so in loving memory and honor of William T. "Bill" Brinkley.

Section 3. That the Clerk of the House is directed to transmit copies of this resolution to Mrs. Elizabeth Brinkley, 8414 Lou Court, Louisville, Kentucky 40219, Mrs. Terri Brinkley Buchanan, 731 Cherokee Drive, Madisonville, Kentucky 42431, Mrs. Jenny Brinkley Clark, 311 West Lake, Madisonville, Kentucky 42431, and Mr. Jeffrey S. Brinkley, Route #4, Brown Road, Madisonville, Kentucky 42431.

HR 165 was adopted by voice vote.

Representative Ballard moved that a call of the roll be taken to show co-sponsors of **HR 165**. Agreed.

On the roll call the vote was yeas 98—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 0.

Orders of the Day (Continued)

HB 23, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Substitute to **HB 23**. Agreed.

Representative Donnermeyer moved that **HB 23**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 1, 1990 roll call on **HB 23** - Appendix.)

HB 23, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 23**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 453 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 453** be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See March 1, 1990 roll call on **HB 453** - Appendix.)

HB 453 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 453** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 38, with Floor Title Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved the adoption of Floor Amendment No. 6 to **HB 38**. Agreed.

Representative Long moved the adoption of Floor Amendment No. 8 to **HB 38**. Agreed.

Representative Long moved that **HB 38**, as amended, be passed.

Representative B. Richardson moved the adoption of Floor Amendment No. 5 to **HB 38**.

On the roll call the vote was yeas 49—Allen, Altman, Arnold, Bentley, Bronger, Bruce, Butler, Callahan, Castleman, P. Clark, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Ford, Gedling, Gregory, Hatcher, Hourigan, Johnson, A. Jones, Kerr, Layman, Lefevers, Lewis, Little, Lyne, McElroy, Morris, Mullinix, Napier, Nelson, Noland, Overstreet, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, B. Smith, Todd, Walker, Worthington, Yates, Zimmerman. Nays 45—Ackerson, Adkins, Ark, Ballard, Barrows, Blandford, Blevins, Brown, Burch, Casebier, L. Clark, Clarke, Cline, Farrow, Freibert, Geveden, Gray, Hancock, J. Harper, K. Harper, Heleringer, T. Jones, Lear, LeMaster, Lile, Long, Maggard, Mason, McBee, Moberly, Nett, Northup, O'Brien, Preston, Priddy, Rapier, Scorsone, Sheehan, Siler, R. Smith, Stokes, Strong, Stumbo, Turner, Ward.

Floor Amendment No. 5 to **HB 38** was adopted.

Representative Long moved that **HB 38**, as amended, be passed.

Representative Overstreet moved the adoption of Floor Amendment No. 4 to **HB 38**.

Representative Long inquired whether Floor Amendment No. 4 was germane to **HB 38**.

The Speaker ruled Floor Amendment No. 4 was not germane to **HB 38**.

Representative Deskins moved the adoption of Floor Amendment No. 9 to **HB 38**.

Representative Long inquired whether Floor Amendment No. 9 was germane to **HB 38**.

The Speaker ruled Floor Amendment No. 9 was not germane to **HB 38**.

Representative Deskins moved the adoption of Floor Amendment No. 3 to **HB 38**.

On the roll call the vote was yeas 6—Bruce, Deskins, Gedling, Mullinix, Overstreet, Todd. Nays 74—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Burch, Butler, Casebier, Castleman, L. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Freibert, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Layman, Lear, LeMaster, Lewis, Lile, Long, Mack, Maggard, McBee, McElroy, Moberly, Morris, Nett, Northup, O'Brien, Preston, Priddy, Rapier, Reinhardt, Richards, Ridley, Riner, Scorsone, Sheehan, Siler, R. Smith, Stokes, Strong, Stumbo, Turner, Walker, Ward, White, Yates, Zimmerman.

Floor Amendment No. 3 to **HB 38** was rejected.

Representative Long moved that **HB 38**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 9. (See March 1, 1990 roll call on **HB 38** - Appendix.)

HB 38, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 38**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 223, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 223** be passed.

Representative Walker moved the adoption of Floor Amendment No. 1 to **SB 223**. Rejected.

On the roll call the vote was: Yeas 70, Nays 28. (See March 1, 1990 roll call on **SB 223** - Appendix.)

SB 223 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 223** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 452 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HB 452** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 1, 1990 roll call on **HB 452** - Appendix.)

HB 452 was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 452** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Arnold moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Arnold moved the adoption of the following Legislative Citation No. 51. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Panatda Tansui, daughter of Sam Boon and Paijit Tansui, from the city of Hatyai, Songkla, Thailand.

As a Rotary Exchange Student, Panatda is attending Nicholas County High School. She participates in several extra-curricular activities while maintaining superior marks in academics. Panatda is an outstanding ambassador from her country bringing her culture to many civic clubs and organizations.

This prestigious body joins Representative Adrian Arnold in recognizing Panatda Tansui for sharing her culture with the citizens of Nicholas County. We extend to Panatda our very best wishes for a continued enjoyable visit to the Commonwealth and success in the future.

Representative Mason moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Mason moved the adoption of the following Legislative Citation No. 52. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Specialist Ronnie J. Mullins for courage and superb performance as part of the 5th Infantry Division, Fort Polk, Louisiana which was deployed as part of the "Just Cause" Invasion Force to Panama.

WHEREAS, Spec. Ronnie Mullins served nobly in the mission to defend and secure the democratic interests in Panama; and

WHEREAS, the ultimate outcome of the mission was the ouster and surrender of General Manuel Noriega; and

WHEREAS, through the efforts of the Task Force Regulars, power was placed in the hands of Panama's elected government; and

WHEREAS, Spec. Ronnie J. Mullins, as a member of this invasion force, "has been through the cauldron of combat and can say with pride, 'mission accomplished'"; and

WHEREAS, Spec. Ronnie J. Mullins has demonstrated that he is trained and ready to defend freedom whenever and wherever the nation calls upon him; and

WHEREAS, 23 of his comrades were taken from these earthly bounds during this dangerous mission; and

WHEREAS, the strength and support of his community, family and friends rode tall with Spec. Ronnie J. Mullins through the valley of the shadow of death and through the providence of God he was spared to fight another day.

This prestigious body salutes Spec. Ronnie J. Mullins for exemplary service to his county as an ambassador and defender of freedom in Panama. For Spec. Ronnie J. Mullins has honorably represented the free world to those people who savor the privileges and rights of democracy and capitalism.

Representative Worthington moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 172, by Representative Worthington: A RESOLUTION adjourning the House of Representatives in honor of the Mason County Homemakers Organization.

Representative Worthington moved the adoption of the following **HR 172**:

HR 172, A RESOLUTION adjourning the House of Representatives in honor of the Mason County Homemakers Organization.

WHEREAS, there are over 32,000 individual members in Homemakers Clubs throughout the Commonwealth of Kentucky; and

WHEREAS, the Mason County Homemakers Organization has the third largest membership in the Commonwealth, consisting of 1,051 members who are associated with twenty-seven clubs in Mason County; and

WHEREAS, the Mason County Homemakers Organization is active in cultural and civic affairs, public issues, policies dealing with solid waste and recycling, and donating their time in the visitation of Kentucky's aged and infirmed citizens residing in nursing homes; and

WHEREAS, the Mason County Homemakers Organization has broadened its horizons with the inclusion of sixteen male memberships; and

WHEREAS, Lillian H. Rice, the Mason County Extension Agent in Home Economics, has dedicated forty years of service to the Mason County Homemakers Organization; and

WHEREAS, thirty-five members of the Mason County Homemakers Organization have travelled to Frankfort to observe the General Assembly and become better acquainted with the legislative process; and

WHEREAS, the Mason County Homemakers Organization will be celebrating fifty-three years of service at its annual dinner meeting on Thursday, May 10, 1990, at 6:00 p.m., to be held at the Mason County Middle School in Maysville, Kentucky, with guest speaker Dr. C. Oran Little, Dean of the University of Kentucky College of Agriculture;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hails the Mason County Homemakers Organization for fifty-three years of community service to Mason County and the Commonwealth of Kentucky.

Section 2. That the House of Representatives is honored to have members of the Mason County Homemakers Organization observe its daily procedure, and welcomes its interest in the legislative process.

Section 3. That when the House of Representatives adjourns this day, Thursday, March 1, 1990, it does so in honor of the Mason County Homemakers Organization.

Section 4. That the Clerk of the House of Representatives is directed to transmit thirty-five copies of this resolution to Lillian H. Rice, Mason County Extension Agent, Cooperative Extension Service, 116 Sutton Street, Maysville, Kentucky 41056, for distribution to Lillian H. Rice, Connie Alexander, Helen Cooper, Nina Rose Gifford, Janice Rawlings, Pat Greifenkamp, Sue Scott, Oleta Mitchell, Roy Redmond, Rolla Kalb, Ruth Tolle, Louise Prather, Virginia Mellenkamp, Elinor Bess, Roseanne Palmer, Opal Hull, Maude Kurtz, Virginia Pumpelly, Jean Everett, Aletha Hitt, Margaret Sears, Goldie Dunaway, Fannie Williams, Mary Frances Ross, Doris Gifford, Lena Belle Dorn, Marty Halleran, Eltha Halleran, Myrtle Bolden, Betty Ross, Joella Carpenter, Lola Brothers, Emma Lewis, John Alexander, Helen Cooper, Wanda Ross and Elizabeth Kirk.

HR 172 was adopted by voice vote.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 167**:

HR 167, A RESOLUTION honoring Daniel A. Schneider.

WHEREAS, Daniel A. Schneider graduated from the University of Louisville School of Law in 1969; and

WHEREAS, Daniel A. Schneider was an Assistant Prosecutor for the City of Louisville from 1970 to 1978; and

WHEREAS, Daniel A. Schneider served as Jefferson County District Judge from 1978 to 1990, including two terms as Chief District Judge; and

WHEREAS, Daniel A. Schneider is the husband of Joann B. Schneider and the father of two sons, Josh and Jed; and

WHEREAS, his numerous awards and citations reflect his outstanding contributions to the judicial system; and

WHEREAS, Daniel A. Schneider has been appointed Circuit Judge for the Thirtieth Judicial Circuit, Fourteenth Division, and he will be officially sworn in by Chief Justice Robert F. Stephens on Wednesday, February 28, 1990, at 3:00 P.M.;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body hails Daniel A. Schneider upon the occasion of his appointment as Circuit Judge for the Thirtieth Judicial Circuit, Fourteenth Division, and wishes him success in all his future endeavors.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Honorable Daniel A. Schneider, 6700 Tallwood Court, Prospect, Kentucky 40059.

HR 167 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Introduction of Bills and Resolutions

HB 819, by Representative Brown: AN ACT relating to the management of solid waste and declaring an emergency.

HB 820, by Representative Richards: AN ACT relating to the Department of Education and declaring an emergency.

HB 821, by Representative Geveden: AN ACT relating to elections.

HB 822, by Representative Geveden: AN ACT relating to nonprofit organizations.

HB 823, by Representative Rapier: AN ACT relating to property taxes.

HB 824, by Representative Hourigan: AN ACT relating to school employees.

HB 825, by Representative Rapier: AN ACT relating to motor vehicle dealers.

HB 826, by Representative Blevins: AN ACT relating to the Wood Technology and Information Center and making an appropriation.

HB 827, by Representative Clarke: AN ACT relating to corporation income and license taxes.

HB 828, by Representatives B. Smith and Richards: AN ACT relating to land use for public purposes.

HB 829, by Representative P. Clark: AN ACT relating to crimes and punishments.

HB 830, by Representative T. Jones: AN ACT relating to environmental protection and providing funding therefor.

HB 831, by Representatives Bronger, Heleringer and Priddy: AN ACT relating to retirement.

HB 832, by Representative T. Jones: AN ACT relating to economic development.

HB 833, by Representative Hancock: AN ACT relating to benefits for state employees.

HB 834, by Representative Hancock: AN ACT relating to health insurance for state employees.

HB 835, by Representative Hancock: AN ACT relating to state employees.

HB 836, by Representative Stumbo: AN ACT to revise and correct the Kentucky Revised Statutes.

HB 837, by Representative Blevins: AN ACT relating to motor vehicle license plates.

HB 838, by Representative Burch: AN ACT relating to planning for and providing services to emotionally disturbed children.

HB 839, by Representatives Reinhardt, Walker, A. Jones, Ridley, Nelson and Lewis: AN ACT relating to workers' compensation.

HB 840, by Representatives Reinhardt, Walker, Ridley, Nelson and Lewis: AN ACT relating to workers' compensation.

HB 841, by Representatives Reinhardt, Walker, A. Jones, Ridley, Nelson and Lewis: AN ACT relating to workers' compensation.

HB 842, by Representative Long: AN ACT relating to public nuisances.

HB 843, by Representative Long: AN ACT relating to criminal justice information.

HB 844, by Representative Barrows: AN ACT relating to benefits for state employees.

HB 845, by Representative Barrows: AN ACT relating to transferable development rights.

HB 846, by Representative Barrows: AN ACT relating to benefits for state employees.

HB 847, by Representative Barrows: AN ACT relating to hazardous waste site permitting.

HB 848, by Representatives Barrows and T. Jones: AN ACT relating to travel expenses.

HB 849, by Representative Barrows: AN ACT relating to the investment of local government funds.

HB 850, by Representative Deskins: AN ACT providing for the amendment of KRS 141.347 and declaring an emergency.

HB 851, by Representative Deskins: AN ACT relating to disposal of solid waste.

HB 852, by Representative Deskins: AN ACT relating to formaldehyde in mobile homes.

HB 853, by Representative Deskins: AN ACT relating to mining.

HB 854, by Representative Deskins: AN ACT relating to economic development bonds for depressed or rural counties.

HB 855, by Representative O'Brien: AN ACT relating to administrative regulations.

HB 856, by Representative Brown: AN ACT relating to the management of solid waste and declaring an emergency.

HB 857, by Representatives Lewis, B. Richardson and Geveden: AN ACT relating to highways.

HB 858, by Representatives Lewis, B. Richardson and Geveden: AN ACT relating to highways.

HB 859, by Representative Gray: AN ACT relating to medical assistance.

HB 860, by Representative Hatcher: AN ACT relating to motor vehicles accidents.

HB 861, by Representative Jackson: AN ACT relating to income taxes.

HB 862, by Representative Freibert: AN ACT relating to persons with cystic fibrosis and making an appropriation therefor.

HB 863, by Representative Riner: AN ACT relating to state employees.

HR 168, by Representative P. Richardson: A RESOLUTION directing the Secretary of Transportation to consider the construction of access ramps at the junction of KY 974 and the Mountain Parkway.

HCR 169, by Representative Priddy: A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the Department of Parks.

HCR 170, by Representative Priddy: A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the Department of Fish and Wildlife Resources.

HJR 171, by Representative Hancock: A JOINT RESOLUTION directing the Secretary of Transportation to expend the state and federal funds set aside for highway construction in the 1990-1992 budget act on projects as set forth in the biennial highway construction plan as contained in this resolution.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 768**.

Natural Resources and Environmental Protection: **HB 461**, **HB 518**, **HB 526**, **HB 530**, **HB 563**, **HB 617**, **HB 645**, **HB 676**, **HB 685**, **HB 727**, **HB 758**, **HB 807**, **HCR 153**.

Appropriations and Revenue: **HB 598**.

Labor and Industry: **HB 719**.

State Government: **HB 682**, **HB 683**.

Health and Welfare: **HB 726**, **HB 757**, **HJR 137**, **HCR 146**, **SB 30**.

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Natural Resources and Environmental Protection: **HB 35**, **HB 58**, **HB 80**, **HB 176**.

Report of Committees

The Committee on Banking and Insurance reported **HB 146** with Committee Amendment attached thereto, and **HB 558** with Committee Amendments and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 146, AN ACT relating to the bonding capacity of the Kentucky Housing Corporation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.090 is amended to read as follows:

(1) The corporation***, following review and comment by the Interim Joint Committee on Appropriations and Revenue, may*** [~~is hereby authorized to~~] provide for the issuance, at one (1) time or from time to time, of bonds of the corporation***, so long as the cumulative outstanding indebtedness of the corporation's bonds does not exceed one billion one hundred twenty-five million dollars ($1,125,000,000), in order*** [~~in an amount not to exceed seven hundred million dollars ($700,000,000)~~] to carry out and effectuate its corporate purposes and powers. ***If the committee does not review or comment on a proposed bond issue within sixty (60) days after receipt of the proposal, the proposal shall be considered reviewed and commented upon by the committee*** [~~except as provided for in subsection (2) of this section~~].

(2) [~~The corporation is hereby authorized to provide for the issuance of an additional four hundred twenty-five million dollars ($425,000,000) in bonds of the corporation with the consent of a majority of the legislative program review and investigations committee of the Kentucky general assembly established as set forth in KRS 6.905. The legislative program review and investigations committee shall oversee in its entirety the bonding program herein set forth.~~

~~(3)~~] In anticipation of the issuance of ***the*** [~~such~~] bonds the corporation also ***may*** [~~is hereby authorized to~~] provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on ***the*** [~~such~~] bonds or notes shall be payable solely from the funds herein provided for ***the*** [~~such~~] payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, ***if*** [~~in the event~~] bond or renewal note proceeds are not available, ***the*** [~~such~~] notes may be paid from any available revenues or assets of the corporation.

(3)[~~(4)~~] The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at ***the*** [~~such~~] price or prices and under ***the*** [~~such~~] terms and conditions [~~as may be~~] determined by the corporation. Any such bonds or notes shall bear interest at ***the*** [~~such~~] rate or rates [~~as may be~~] determined by the corporation. Notes shall mature at ***the*** [~~such~~] time or times not exceeding ten (10) years from their date or dates and bonds shall mature at ***the*** [~~such~~] time or times not exceeding forty (40) years from their date or dates, [~~as may be~~] determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. ***If*** [~~In case~~] any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be ***the*** [~~such~~] officer before the delivery thereof, ***the*** [~~such~~] signature or ***the*** [~~such~~] facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until ***the*** [~~such~~] delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, ***the*** [~~such~~] bonds or notes may be sold in ***the*** [~~such~~] manner, either at public or private sale, and for ***the*** [~~such~~] price ***the*** [~~as said~~] corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter ***if the*** [~~provided that such~~] sale shall be approved by the corporation.

(4)[~~(5)~~] The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in ***the*** [~~such~~] manner and under ***the*** [~~such~~] restrictions if any, [~~as~~] the corporation may provide in the resolution authorizing the issuance of ***the*** [~~such~~] bonds or notes or in the trust agreement [~~hereinafter mentioned~~] securing the same.

(5)[~~(6)~~] Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when ***the***

[~~such~~] bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(6)[~~(7)~~] Bonds or notes may be issued under the provisions of this chapter only upon obtaining the approval of the Legislative Program Review and Investigations Committee of the Kentucky General Assembly.

(7)[~~(8)~~] The Finance and Administration Cabinet shall provide to the corporation ***the necessary*** [~~such~~] fiscal consultant services regarding revenue bond management [~~as may be necessary~~].

Section 2. Whereas the Kentucky Housing Corporation has almost reached its bond issuance capacity, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 146** is as follows:

Amend printed copy of **HB 146** on page 1, line 4, by deleting "***Appropriations and Revenue***" and inserting in lieu thereof "***Banking and Insurance***".

On page 4, line 23, by deleting "]" and striking through all of the words on the line.

On page 4, by striking through lines 24, 25 and 26.

On page 5, line 1, by deleting "***(7)***[".

HB 558, AN ACT relating to the procurement of banking services by the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of KRS 41.220 notwithstanding, services by the general depository bank of the State Treasury shall be performed in compliance with a contract awarded subsequent to an invitation for sealed bids pursuant to KRS 45A.080 or a request for proposals issued in accordance with competitive negotiation procedures outlined in KRS 45A.085 and administrative regulations promulgated pursuant thereto.

(2) KRS 287.180 shall not be construed to limit the ability or right of any state or nationally chartered bank doing business in this Commonwealth and insured by the Federal Deposit Insurance Corporation from bidding on and being awarded a contract to perform general depository banking services for the Commonwealth as provided in this section and in KRS Chapter 45A.

(3) Any contract for general depository banking services may provide, in the discretion of the State Treasurer or of the Finance and Administration Cabinet, for the transportation of deposits from the State Treasurer's office to the bank by the general depository bank. The cost of transportation provided by the general depository bank when required by the contract shall be added to and paid in the same manner and from the same source as the compensation to the general depository bank for other services rendered under the contract.

Section 2. Whereas, this Act clarifies laws affecting the Commonwealth's ability to contract for general depository services, and the Commonwealth's current contract for general depository services expires on June 30, 1990, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 558** is as follows:

Amend printed copy of **HB 558** on page 1, line 17, after "***45A.***" by inserting:

"However, the award of a general depository banking contract shall not authorize the depository bank to establish a branch bank."

The Committee Amendment No. 2 to **HB 558** is as follows:

Amend printed copy of **HB 558** on page 1, by deleting lines 18, 19 and 20 in their entirety and inserting in lieu thereof:

"(3) All bids or contracts for general depository banking services shall include the costs of transporting funds from the State Treasury to the state depository bank."

On page 2, by deleting lines 1 through 7 in their entirety.

The Committee Title Amendment to **HB 558** is as follows:

Amend printed copy of **HB 558**, Title, after "Commonwealth", by inserting "and declaring an emergency".

Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to the House Committee Substitute to **SB 68**, by Representative Donnermeyer:

Amend printed copy of HCS for **SB 68** on page 15, line 13, by deleting the words "***, freestanding or hospital based***" and inserting in lieu thereof the words "***which are located in and operated by hospitals***".

Floor Amendment No. 3 to the House Committee Substitute to **SB 68**, by Representative Geveden:

Amend printed copy of HCS for **SB 68** on page 1, line 1, through page 4, line 20,

By deleting Section 1 in its entirety and renumbering the remaining sections to conform.

And on page 16, line 1,

By deleting lines 1 through 8.

And on page 16, line 9,

By deleting "***(3)***" and by removing the brackets and strike throughs from "(2)".

And on page 24, line 17,

By deleting lines 17 through 26.

And on page 25, line 1,

By deleting lines 1 through 26,

And on page 26, line 1,

By deleting line 1 through 10,

And on page 55, line 1, through page 56, line 11,

By deleting SECTION 17 in its entirety.

Floor Title Amendment No. 1 to **SB 68**, by Representative Long:

Amend printed copy of **SB 68** GA copy by changing the title to read as follows:

"AN ACT relating to health care services and benefits."

Floor Amendment No. 1 to the Committee Substitute to **HB 639**, by Representative Heleringer:

Amend printed copy of HCS to **HB 639** on page 15, lines 21 through 26, and on page 16, lines 1 through 24, to delete the same in its entirety and to insert the following in lieu thereof:

"(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance [~~or temporary support of a child of the marriage entitled to support~~]. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) ***Upon motion by either party accompanied by an affidavit setting forth the number of children of the marriage and income of the parties, with notice to the opposing party, the court, without a hearing, within fourteen (14) days from the filing of said motion, shall order an amount of temporary child support based upon the child support guidelines as provided by law, the order effective immediately; either party may move for a hearing before the court to contest or modify the order pursuant to the rules of the local court.***

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4)[~~(3)~~] On the basis of the showing made and in conformity with KRS 403.200 and ***the child support guidelines set forth in Section 3 of this Act*** [~~403.210~~], the court may issue a temporary injunction or restraining order and an order for temporary maintenance or support in amounts and on terms just and proper in the circumstances.

(5)[~~(4)~~] A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed."

Floor Amendment No. 3 to **HB 399**, by Representative R. Smith:

Amend printed copy of **HB 399** on page 3, line 26, after the "(b)" by deleting the following language: "***and vehicles being used to transport***"

On page 4, lines 1 through 3, by deleting said lines in their entirety.

On page 4, line 4, by deleting the following language: "***livestock and agricultural products***".

On page 5, after line 16, by inserting the following language: "***(7) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.***"

Floor Amendment No. 5 to the Committee Substitute to **HB 339**, by Representative Clarke:

Amend printed copy of HCS for **HB 339** on page 1, after line 21 insert the following

"***(1) In addition to any other requirement by law, a deed to real property, except by gift, shall contain the following:***

(a) The mailing address of the grantor and grantee;

(b) A statement of the full actual consideration; and

(c) An acknowledgement signed by the grantor and grantee, or the agent or attorney of either, or the parent or guardian of a person under eighteen (18) years old as to the full actual consideration.

(2) A deed to real property evidencing a transfer of title by gift, in addition to any other requirement by law, shall contain the following:

(a) An affidavit signed by the grantor and grantee, or the agent or attorney of either, or the parent or guardian of a person under eighteen (18) years old that the transfer was by gift, will or under the laws of descent; and

(b) An acknowledgement signed by the grantor and grantee, or the agent or attorney of either, or the parent or guardian of a person under eighteen (18) years old as to the full estimated value of the property.

(3) In the event of transfer of real property by will or under the laws of descent, an affidavit shall be filed with the county clerk and shall contain the following:

(a) A statement that the transfer was by will or under the laws of descent; and

(b) An acknowledgement signed by the personal representative of the estate, or the agent or attorney of same, as to the full estimated value of the property.

(4) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

Section 3. KRS 382.990 is amended to read as follows:

(1) Any grantor of a deed or any holder of a note who lodges for record a deed, instrument, or deed assigning a note or a deed of release or an instrument wherein there is a release, and any county clerk or deputy county clerk who receives and permits to be lodged for record any such instrument or deed contrary to the provisions of KRS 382.110, 382.120, 382.290 or 382.360, shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each offense; the clerk or deputy who actually receives and files the instrument for record shall incur the penalty, but no clerk or deputy shall be fined because of any false or erroneous statement in the instrument filed.

(2) Any person who willfully and fraudulently makes affidavit to any statement mentioned in KRS 382.120, which is false, knowing the statement to be false, shall be fined not over five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition shall be liable to any person who may be injured by the making, filing, recording or use of ***the*** [~~such~~] affidavit.

(3) Any person who causes to be recorded in a county clerk's office a deed, deed of trust or mortgage in violation of KRS 382.330, or fails to file the statement required by KRS 382.380, shall be fined not more than one thousand dollars ($1,000).

(4) Any county clerk who records a deed or mortgage in violation of KRS 382.330 shall be fined not more than one hundred dollars ($100).

(5) Any county clerk who, by himself or deputy, fails to perform any duty enjoined upon him by any of the provisions of KRS 382.110, 382.160, 382.180 to 382.200, 382.210, 382.250, 382.300 to 382.320, 382.360 or 382.370 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(6) Any person who knowingly and intentionally gives a false name or address in any instrument or assignment mentioned in KRS 382.430, shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000).

(7) Any county clerk who fails to perform his duties under KRS 382.430, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(8) Any person who willfully and fraudulently gives a false statement as to the full actual consideration of property under subsection (1) of Section 2 of this Act, or the full estimated value under subsections (2) or (3) of Section 2 of this Act; shall be guilty of a Class D felony.

Section 4. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing [~~(~~]other than a will and other than a lease or easement[~~)~~], regardless of where made, executed or delivered ***by which*** [~~whereby~~] any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed ***shall be*** [~~is~~] imposed at the rate of fifty cents (50) for each five hundred dollars ($500) of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect ***the*** [~~such~~] amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Revenue Cabinet may prescribe [~~such rules and~~] regulations [~~as it may deem~~] necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to ***the*** [~~such~~] deed shall, upon conviction, be fined fifty dollars ($50) for each offense.

(7) [~~Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than $100 or to imprisonment for not more than thirty (30) days or to both such fine and imprisonment for each offense.~~

~~(8)~~] The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To*,* [~~(~~]in the event of a deed of gift or deed with nominal consideration*,*[~~)~~] or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation."

On pages 2, 3 and 4, delete lines 1 through 26 in their entirety.

On page 5, delete lines 1 through 11 in their entirety.

On page 5, line 12, delete "Section 3." and insert in lieu thereof "Section 5."

On page 6, line 23, after the word "***mail.***" add the following:

"***The filing of a real property deed shall be considered a listing by the property owner for the following January 1 assessment date if the owner fails to list in person or fails to file a return.***".

On page 9, lines 19 through 26, delete in their entirety.

On pages 10 and 11, delete lines 1 through 26 in their entirety.

On page 12, delete lines 1 through 18 in their entirety.

On page 12, line 19, delete "Section 5." and insert in lieu thereof "Section 6.".

On page 13, line 16, delete "Section 6." and insert in lieu thereof "Section 7."

On page 14, line 11, delete "Section 7." and insert in lieu thereof "Section 8.".

On page 15, line 17, delete "Section 8." and insert in lieu thereof "Section 9."

On page 16, line 26, delete "Section 9." and insert in lieu thereof "Section 10."

On page 17, line 15, delete "Section 10." and insert in lieu thereof "Section 11.".

On page 18, line 16, delete "Section 11." and insert in lieu thereof "Section 12."

On page 19, line 18 delete "Section 12." and insert in lieu thereof "Section 13."

On page 20, line 7, delete "Section 13." and insert in lieu thereof "Section 14.".

On page 23, line 3, delete "Section 14." and insert in lieu thereof "Section 15."

On page 23, line 12, delete "Section 15." and insert in lieu thereof "Section 16."

On page 26, line 26, delete "Section 16." and insert in lieu thereof "Section 17." and delete the words "sections are" and insert in lieu thereof "section is".

On page 27, delete lines 1 through 3 in their entirety.

Floor Amendment No. 6 to the Committee Substitute to **HB 339**, by Representative Hancock:

Amend printed copy of HCS for **HB 339** on page 16, after line 19, by adding the following:

"***(4) Notwithstanding the provisions of subsection (3) of this section and KRS 61.874, the property valuation administrator shall furnish, upon request, a copy of the certified tax roll to any newspaper for the purpose of publishing, without charge, the tax roll in its entirety. In the event that the newspaper fails to publish the tax roll in its entirety within thirty (30) days following receipt from the property valuation administrator, or if the newspaper exacts a charge for publishing the tax roll, the property valuation administrator shall bill the newspaper for the cost of furnishing the tax roll as provided for under the provisions of subsection 3 of this section. In accepting a copy of the certified tax roll, without cost, the newspaper shall agree to the conditions set out in this subsection.***"

And by renumbering subsequent subsections to conform.

Floor Amendment No. 2 to **HB 358**, by Representative Clarke:

Amend printed copy of **HB 358** on page 1, line 9, delete the following: "***The cabinet shall fairly divide,***"

lines 10, 11, & 12, delete in their entirety.

On page 2, line 1, after the word "***districts.***" add the following: "***The allocation shall be based on the location of terminals or other business situs property and/or use of major interstate routes.***"

line 1, delete the word "***The***"

line 2 through 6, delete in their entirety.

On page 2, line 17, before the word "***a***" insert the following: "***an estimate of the proportionate use of business situs property on a fleet basis and an estimate of the use of major interstate routes on a fleet basis***" and on line 17, delete the following: "***a detailed description of the entire***"

on line 18, delete in its entirety

on line 19, delete the following: "***cabinet may prescribe***".

Floor Amendment No. 1 to the Committee Substitute to **HB 100**, by Representative A. Jones:

Amend printed copy of HCS for **HB 100** on page 6, beginning on line 17 and ending on line 18 by deleting "***ten thousand dollars ($10,000)***" and by inserting in lieu thereof: "***four thousand dollars ($4,000)***"

On page 6, after line 22, by adding the following new paragraph:

"***(c) The penalty imposed in paragraph (b) of this subsection shall be enforced by the county attorney for the county in which the violation occurred.***"

On page 10, beginning on line 20, and ending on line 21 by deleting "***ten thousand dollars ($10,000)***" and by inserting in lieu thereof: "***four thousand dollars ($4,000)***"

On page 10, after line 25, by adding the following new subsection:

"***(3) The penalty imposed in subsection (2) of this section shall be enforced by the county attorney for the county in which the violation occurred.***"

On page 11, beginning on line 17 and ending on line 18 by deleting "***ten thousand dollars ($10,000)***" and by inserting in lieu thereof: "***four thousand dollars ($4,000)***"

On page 11, after line 22, by adding the following new subsection:

"***(3) The penalty imposed in subsection (2) of this section shall be enforced by the county attorney for the county in which the violation occurred.***"

Floor Amendment No. 1 to **HB 600**, by Representative O'Brien:

Amend printed copy of **HB 600** on page 2, line 7, to delete "***seven (7)***" and to insert in lieu thereof "***five (5)***".

Floor Amendment No. 1 to the Committee Substitute to **HB 503**, by Representative Crupper:

Amend printed copy of HCS for **HB 503** on page 3, lines 25 and 26, delete "***or area***"; and

On page 4, line 1, insert after the "***;***" the word "***and***"; and

On page 4, delete lines 2 and 3; and

On page 4, line 4, change "***(i)***" to "***(h)***"; and

On page 5, lines 14 and 15, delete "***may be conducted either on a statewide or area basis***" and insert in lieu thereof "***shall be conducted on a statewide basis.***"; and

On page 5, lines 19 through 22, delete all the words following "***Act***" on line 19 through the word "***basis,***" on line 22, and insert in lieu thereof on line 19 "***shall be held on a statewide basis.***"; and

On page 5, line 22, insert "***The referendum***" before the word "***may***"; and

On page 8, lines 17 and 18, delete "***in the area in which the referendum is conducted,***"; and

On page 11, lines 8 and 9, delete "***in the referendum area***"; and

On page 11, line 11, delete "***in the area***"; and

On page 11, line 12, delete "***in the area***"; and

On page 11, lines 14 and 15, delete "***for the area***".

The Clerk announced the following meeting:

The Budget Review Subcommittee on Justice, upon adjournment, March 2, 1990.

The Committee on Health and Welfare, upon adjournment.

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, March 2, 1990.

The motion that the House adjourn until 9:00 a.m., Friday, March 2, 1990 was adopted by voice vote.